

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

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

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MARCH 15, 2006 - ENVIRONMENTAL PROTECTION COMMISSION SPECIAL MEETING - DRAFT  
MINUTES

The Environmental Protection Commission (EPC), Hillsborough County, Florida, met in Special Meeting to consider Arbitration of Permit Applications and the Optimized Regional Operations Plan (OROP) for 2005, scheduled for Wednesday, March 15, 2006, at 2:18 p.m., in the Boardroom, Frederick B. Karl County Center, Tampa, Florida.

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

The following member was absent: Commissioner Jim Norman (schedule conflict).

Chairman Storms called the meeting to order at 2:18 p.m.

Mr. Anthony D'Aquila, EPC staff, reviewed staff recommendation not to arbitrate the following items: (1) proposed national pollutant discharge elimination system permit renewal application for the Tampa Bay seawater desalination facility, (2) proposed environmental resource permit (ERP) time extension for the construction period at the Tampa Bay seawater desalination facility, (3) proposed letter of modification of the existing ERP issued for the North-Carlton wetland mitigation site, and (4) proposed OROP for 2005. Staff requested a letter from the EPC Chairman to the Tampa Bay Water board of directors reflecting EPC concerns related to the OROP for 2005. Chairman Storms called for public comment; there was no response. **Commissioner Sharpe moved staff recommendation, seconded by Commissioner Scott, and carried six to zero.** (Commissioner Norman was absent.)

There being no further business, the meeting was adjourned at 2:19 p.m.

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

CHAIRMAN

ATTEST:

PAT FRANK, CLERK

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

Deputy Clerk

kc

MARCH 16, 2006 - ENVIRONMENTAL PROTECTION COMMISSION - DRAFT MINUTES

The Environmental Protection Commission (EPC), Hillsborough County, Florida, met in Regular Meeting, scheduled for Thursday, March 16, 2006, at 10:00 a.m., in the Boardroom, Frederick B. Karl County Center, Tampa, Florida.

The following members were present: Chairman Ronda Storms and Commissioners Brian Blair (arrived at 10:13 a.m.), Kathy Castor, Thomas Scott (arrived at 10:40 a.m.), and Mark Sharpe.

The following members were absent: Commissioners Ken Hagan (schedule conflict) and Jim Norman (schedule conflict).

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

#### CHANGES TO THE AGENDA

Dr. Richard Garrity, EPC Executive Director, added Item III.G., authorize the Executive Director to execute the U.S. Environmental Protection Agency (EPA) Gulf of Mexico grant contract; submitted corrections to Item V, legislative update; and submitted a budget sheet for Item VII.A., Knights preserve pollution recovery fund (PRF) request. Chairman Storms called for discussion; there was no response. **Commissioner Sharpe moved the items, seconded by Commissioner Castor, and carried four to zero.** (Commissioner Scott had not arrived; Commissioners Hagan and Norman were absent.)

#### CITIZENS COMMENTS

Commissioner Storms called for public comment. Ms. Cecile Longfellow, Knights Elementary School, supported the Knights preserve PRF request. Mr. Stanley Ewanowski Jr., 11513 North Ravine Road, chairman of Blue Sink/Curiosity Creek Coalition, supported the use of water from Ewanowski Spring to supplement water in the Hillsborough River. Mr. Peter Schreuder, technical consultant, Schreuder Incorporated, discussed Blue Sink, water yield, Ewanowski Spring, and the proposal for an engineering solution to return water to the foot of the Hillsborough River dam at an estimated cost of \$2.8 million. Commissioner Blair said many lakes in the Forest Hills area were spring fed and relied on that water for water levels. He asked if Mr. Schreuder attributed flooding to the blockage in Blue Sink or if there were data to indicate flooding in Forest Hills began when the blockage occurred. Mr. Schreuder explained lakes began rising when Blue Sink clogged. Commissioner Blair asked how lake water levels in the Forest Hills area would be affected. Mr. Schreuder said lake levels would return to the normal range before the clog occurred.

THURSDAY, MARCH 16, 2006 - DRAFT MINUTES

Mr. Philip Compton, representing Florida Consumer Action Network and Friends of the River Incorporated, said Blue Sink might represent a significant part of the answer to provide fresh water to the lower Hillsborough River and allow the river to work as an estuary. He urged EPC to work with Southwest Florida Water Management District (SWFWMD), city of Tampa (Tampa), environmental agencies, and citizens to find the answer to provide fresh water to the river.

Mr. Tom Krumreich, Florida Consumer Action Network, said SWFWMD had stated the Hillsborough River needed at least 26 cubic feet per second, less than 17 million gallons per day (mgd). Tampa Bay Water (TBW) had reduced pumping from Pasco County wellfields by 30 mgd, and TBW was being allowed to produce 17 mgd less from the desalination plant than originally promised. Thus far, the Hillsborough River had not been guaranteed any of the 17 mgd that science said was needed. Adding reclaimed water to the river might not be a good answer, because hormones could change fish gender and prevent fish from reproducing, and fragrances could confuse fish from finding their way around or finding each other and their spawning grounds. TBW wanted an answer from the Department of Environmental Protection (DEP) in 2006 whether reclaimed water could be mixed with fresh water. Local scientists had many questions whether reclaimed water would do more harm than good to restore the nursery function. Dr. Rich Brown, member of Friends of the River, said scientists could not agree on how variables stacked up; however, Blue Sink was only one way to solve the problem.

CITIZENS ENVIRONMENTAL ADVISORY COMMITTEE (CEAC)

Report from the Chairman, David Jellerson - Mr. Jellerson reported on the March 6, 2006, meeting, noting CEAC recommended approval of the proposed changes to Chapter 1-2, administrative procedures rule; elected officers; and recommended changes to CEAC bylaws. CEAC completed review on one additional PRF application from Knights Elementary School and recommended approval of \$43,256.65, as requested by the applicant. However, EPC staff and the applicant had met subsequent to the CEAC meeting and changes to the PRF recommendation would be made.

CONSENT AGENDA

- A. Approval of minutes: February 16, 2006.
- B. Monthly activity reports.
  - PRF report.
- D. Gardinier Settlement Trust Fund report.

THURSDAY, MARCH 16, 2006 - DRAFT MINUTES

- E. Legal case summary.
- F. Proposed changes to CEAC bylaws.
- G. Authorize the Executive Director to execute the EPA Gulf of Mexico grant contract.

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

PUBLIC HEARING.

Conduct Public Hearing to Consider Amendments to Chapter 1-2 Administrative Procedures (EPC Rules) - EPC General Counsel Richard Tschantz introduced the item, explaining the administrative procedures rule dictated operation of the agency, which needed amending and updating. Attorney Andrew Zodrow, EPC Legal Department, provided a brief overview of changes to the rule and pointed out staff made a minor change to the draft rule after CEAC took action to support changes to the rule. Changes were designed to make the rule easier to follow and provide a clear and more transparent process for citizen involvement and to challenge agency decisions. Staff proposed a new substantive change for an administrative rule-making process similar to the State to provide an administrative process to challenge a rule and avoid litigation. Staff recommended EPC approve the proposed rule amendments provided with the agenda item cover sheet.

Chairman Storms called for public comment. Ms. Jennifer Motsinger, Tampa Bay Builders Association (TBBA), opined the changes were redundant since the Florida Statutes already provided for notice requirements; requested clarification of Sections 1-2.05, 1-2.051(a), and 1-2.051(b); and asked that language be modified to have public notice pertain only to public health and safety issues and remove wetlands. Commissioner Scott said he had provided a list of similar questions to Dr. Garrity. Attorney Zodrow answered questions regarding notice, the Executive Director, time frame, and criteria. Regarding notice, Chairman Storms asked if the act stated duplicate notice were required if one sign qualified. Attorney Zodrow explained the act did not state that specifically, but staff could amend the language. Attorney Tschantz explained the intent was to provide enhanced public notice and apply to projects within Hillsborough County.

Commissioner Castor opined the amendment was an important neighborhood protection revision to the rule. She credited the neighbors around Tatum

THURSDAY, MARCH 16, 2006 - DRAFT MINUTES

Manufacturing Incorporated (Tatum) for raising the issue, because EPC did not have the tool at that time to state there was heightened concern that needed extra attention, notice, and hearings at the beginning of the process rather than trying to address issues later. **Commissioner Castor moved approval if the attorney, by the end of the comments, could make that clarification on the posting of notices.**

In reply to Commissioner Scott, Dr. Garrity explained the intent was to adhere to the time frame established for review. Attorney Tschantz confirmed public workshops would be held no later than ten days before agency action on the permit. Commissioner Scott asked if the motion included dealing with the duplication language. **Commissioner Castor concurred.** Ms. Motsinger requested TBBA be allowed to work with staff to have a better understanding, issues might come up regarding the language. Commissioner Scott asked if the motion would allow that. **Commissioner Castor concurred. Commissioner Scott seconded the motion.**

Commissioner Sharpe wanted to ensure nothing would unduly delay the process and provide clearly defined timelines, so individuals could understand how much time the process would take. He asked that Dr. Garrity comment on focusing on public safety and not on the wetland condition. Dr. Garrity opined Ms. Motsinger would be more satisfied if there was specific language that the rule focused on public health and safety issues, which was what staff intended when the rule was amended, because the amendment stemmed from the Tatum spa incident. Staff wanted to afford the public more opportunity to be aware of projects coming to their neighborhood that might be perceived to have public health and safety issues.

Commissioner Blair discussed the importance of providing authorization for someone to sign-off on a project other than the Executive Director. Chairman Storms stressed the amendment was intended to be about manufacturing plants or things that would threaten the health, safety, and welfare for human beings and impacts to nature that also impacted humans. In working with TBBA, Chairman Storms understood staff would clarify points raised and not draft the rule around the building industry.

Attorney Tschantz stated the balance of the rule had not been discussed and asked if EPC wanted staff to come back next month with focus on the notice provision on the points raised. Commissioner Castor asked if that would provide time to draft the language on dual notice provisions; she did not object to providing time for discussion. The motion could be altered to adopt the remainder of the rule and keep out the public notice requirement Section

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1-2.051, and continue that to the EPC meeting next month. Attorney Tschantz confirmed the dual notice publishing was in that section too. **Commissioner Castor revised the motion accordingly, seconded by Commissioner Scott.** Attorney Zodrow clarified a provision in Section 1-2.051 stated duplication was not necessary; however, staff would return with better language. **The motion carried five to zero.** (Commissioners Hagan and Norman were absent.)

LEGAL DEPARTMENT

Legislative Update - Attorney Tschantz requested EPC send a letter opposing Senate Bill 1608 and House Bill 949, which preempted County land use decisions from affecting municipalities and would nullify special acts from having any further affect within municipalities regarding land use development decisions, unless the municipality and County voted in separate votes to continue those regulations in effect. If the municipalities did not want EPC regulations, they could vote them out. The Florida League of Cities sponsored the bills. **Commissioner Scott moved to authorize the Chairman to draft and send a letter, seconded by Commissioner Castor, and carried four to zero.** (Commissioner harpe was out of the room; Commissioners Hagan and Norman were absent.)

Attorney Tschantz said the second bill could be addressed in the same letter. The bill was known as the incentive-based permitting act and had several different bill numbers. The original concept was good, starting as performance-based permitting. Tools were provided to issue permits with stricter conditions for companies with bad enforcement records or provided a basis for denial of a permit. However, the bill had evolved into an incentive-based permit and was a diluted version of the bill to provide incentives to companies who had records that did not show past violations to get incentives of 5- or 10-year permits. The permits could be renewed without agency action, and they were more difficult to revoke and required fewer inspections. The problem was a company could fold, yet be the same operation under a different name and show no prior violations. **Commissioner Scott moved that both bills be addressed in the same letter, seconded by Commissioner Castor, and carried five to zero.** (Commissioners Hagan and Norman were absent.)

Chairman Storms said during the Board of County Commissioners (BOCC) discussion on March 15, 2006, on the County mayor issue, she had asked EPC to examine the impact of the proposed County mayor to EPC and that former Commissioner Jan Platt, who was well known for her leadership on environmental issues, be considered and consulted on the issue. Attorney Tschantz said

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County Attorney Renee F. Lee had already contacted EPC, and EPC was included by BOCC action.

EXECUTIVE DIRECTOR'S REPORT

Acknowledge Science Fair Winners - Dr. Garrity reported the EPC sponsored the Environmental Merit Award at the 26th Annual Hillsborough Regional Science Fair held at the University of South Florida. Two winners were selected. He introduced Mr. Durin O'Linger and Mr. David VanHof who described their science projects and accepted certificates. Commissioner Sharpe and Chairman Storms complimented the young men on their articulation and poise. Chairman Storms asked that staff give videotaped copies of the meeting to Messrs. O'Linger and VanHof.

Dr. Garrity recalled Commissioner Norman had brought up noise issues at Channelside at the last EPC meeting. Staff had contacted Tampa and planned to comment on the strategic plan for the Channel District, which was proposed to increase to 12,000 residents over the next several years.

ENVIRONMENTAL RESOURCES MANAGEMENT DIVISION

Consider Knights Preserve PRF Request - Mr. Tom Ash, EPC staff, recommended approval at \$35,235, which was a different funding level than recommended by CEAC. Attorney Tschantz clarified the amount proposed was the amount recommended by EPC staff. Ms. Longfellow indicated agreement. **Commissioner Scott moved staff recommendation, seconded by Commissioner Sharpe, and carried five to zero.** (Commissioners Hagan and Norman were absent.)

Lake Magdalene PRF Update - Mr. Ash said EPC staff had met with the Lake Magdalene Special Dependent District board members and County stormwater staff and was continuing to work to get Lake Magadalene into a lake assessment plan with the University of South Florida, which could occur within 2006. Information would be included in the watershed atlas.

Seagrass Awareness Month -Dr. Garrity reported Governor Jeb Bush had issued a proclamation recognizing March 2006 as Seagrass Awareness Month. The restoration of Tampa Bay was to increase seagrass. Ms. Nanette Holland, Tampa Bay Estuary Program, thanked EPC for supporting the estuary program and efforts to restore seagrasses to Tampa Bay and provided an overview of seagrasses in Tampa Bay.



COMMISSIONERS' REQUESTS

Environmental Justice Program - Commissioner Castor distributed information; explained after the Tatum manufacturing plant discussion, a neighborhood leader had submitted a recent report from EPA; commented on information available under the Right to Know Act; stated research from EPA showed minority neighborhoods were 79 percent more likely to be at risk of industrial pollution as a health threat than other neighborhoods; and opined community right-to-know information should be posted on the EPC website. Commissioner Castor discussed funding available for counties and other organizations through EPA to support community-based partnerships to reduce toxic risks in local communities. Grants ranged from \$75,000 to \$100,000 to establish community-based partnerships and set priorities for reducing toxic risks. A different set of grants would be awarded to communities that already had broad-based collaborative partnerships that had identified and were ready to implement risk reduction priorities. **Commissioner Castor moved that EPC direct the Executive Director to explore the opportunities, and if EPC had the ability to put a grant application together by the April deadline, that he move forward to do that. Commissioner Scott seconded the motion, which carried five to zero.** (Commissioners Hagan and Norman were absent.)

Discussion - Blue Sink/Curiosity Creek - Commissioner Castor introduced the item and stated the issue was particularly timely for TBW board members to ask TBW for an analysis through downstream augmentation. Mr. Anthony D'Aquila, EPC staff, said Blue Sink was a good example of a surficial geological feature leading into an aquifer, groundwater, and interconnectivity. He distributed information and reviewed the interconnected systems, issues, potential management goals, and recommendations. Commissioner Castor said staff recommendation was direction to seek partnerships to develop a cooperative funding application for SWFWMD to continue research, provide EPC with a recommendation for the County Administrator to possibly present to the BOCC for endorsement, and send a letter to Tampa. Commissioner Castor wanted TBW members to carry the issue to the TBW board for consideration, and ask staff to report at an EPC meeting.

Commissioner Blair expressed concern about lake levels in Forest Hills. Mr. D'Aquila said there were concepts to move water from Blue Sink, but that would be removing groundwater. Tampa had tried to do that at the height of the 2000 drought; the best productivity achieved from Blue Sink was 2 mgd. One issue FWMD would have with the proposal would be the regional focus on TBW, whose policy was to move away from groundwater sources. Commissioner Blair said the

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lakes in Forest Hills had been adversely affected by stormwater projects and stormwater issues must be weighed. Mr. D'Aquila explained that was why staff recommendation included endorsement from the BOCC.

Chairman Storms said TBW had debated the issue, and she expressed concern about EPC taking a position that looked like any form of groundwater pumping. Mr. D'Aquila opined the best action would be to protect the existing sinks that had good connectivity south of Blue Sink, with stormwater retention, remediation, and treatment to prevent additional untreated stormwater from polluting the other sinks. Needing more information, Chairman Storms was not prepared to support the proposal going forward.

Commissioner Castor said the proposal was not groundwater pumping of Blue Sink; the item on the TBW agenda was farther to the north for emergency pumping of the sink. The request was to move forward with research for clarification of questions. Mr. D'Aquila explained supporting better stormwater treatment going into the sinks would protect the chain of sinks that led to and helped feed the river, and the issue would be stormwater, not potable water supply production. Chairman Storms did not want to spend money on restoration so Tampa could pump more mgds from the river. Commissioner Castor said the proposal could be part of the solution for downstream augmentation, which was why she suggested the issue be brought up at TBW. If there was a restoration project going hand-in-hand with the potable water project, TBW should analyze that.

Commissioner Castor suggested continuing the issue to the next meeting to get more information and provide an opportunity for EPC members to talk to scientists at TBW and EPC staff, and allow an opportunity for citizens to meet with EPC members. **Commissioner Castor made that the motion, seconded by Commissioner Sharpe, and carried four to zero.** (Commissioner Scott was out of the room; Commissioners Hagan and Norman were absent.)

THURSDAY, MARCH 16, 2006 - DRAFT MINUTES

There being no further business, the meeting was adjourned at 11:54 a.m.

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

CHAIRMAN

ATTEST:

PAT FRANK, CLERK

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

sd

MONTHLY ACTIVITIES REPORT  
AIR MANAGEMENT DIVISION  
**March**

A.	Public Outreach/Education Assistance:	186
	1. Phone Calls:	<u>0</u>
	2. Literature Distributed:	<u>0</u>
	3. Presentations:	<u>1</u>
	4. Media Contacts:	<u>62</u>
	5. Internet:	<u>0</u>
	6. Host/Sponsor Workshops, Meetings, Special Events	<u>0</u>
B.	Industrial Air Pollution Permitting	
	1. Permit Applications Received (Counted by Number of Fees Received):	
	a. Operating:	<u>3</u>
	b. Construction:	<u>4</u>
	c. Amendments:	<u>0</u>
	d. Transfers/Extensions:	<u>2</u>
	e. General:	<u>2</u>
	f. Title V:	<u>2</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>5</u>
	b. Construction <sup>1</sup> :	<u>1</u>
	c. Amendments <sup>1</sup> :	<u>0</u>
	d. Transfers/Extensions <sup>1</sup> :	<u>9</u>
	e. Title V Operating <sup>2</sup> :	<u>2</u>
	f. Permit Determinations <sup>2</sup> :	<u>0</u>
	g. General:	<u>2</u>
	3. Intent to Deny Permit Issued:	<u>0</u>
C.	Administrative Enforcement	
	1. New cases received:	<u>0</u>
	2. On-going administrative cases:	
	a. Pending:	<u>8</u>
	b. Active:	<u>17</u>
	c. Legal:	<u>5</u>
	d. Tracking compliance (Administrative):	<u>23</u>
	e. Inactive/Referred cases:	<u>0</u>
	Total	<u>53</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>\$2,156.25</u>
	7. Cases Closed:	<u>3</u>

D.	Inspections:	
1.	Industrial Facilities:	<u>19</u>
2.	Air Toxics Facilities:	
a.	Asbestos Emitters	<u>0</u>
b.	Area Sources (i.e. Drycleaners, Chrome Platers, etc...)	<u>14</u>
c.	Major Sources	<u>0</u>
3.	Asbestos Demolition/Renovation Projects:	
E.	Open Burning Permits Issued:	<u>10</u>
F.	Number of Division of Forestry Permits Monitored:	<u>230</u>
G.	Total Citizen Complaints Received:	<u>84</u>
H.	Total Citizen Complaints Closed:	<u>46</u>
I.	Noise Sources Monitored:	<u>7</u>
J.	Air Program's Input to Development Regional Impacts:	<u>0</u>
K.	Test Reports Reviewed:	<u>49</u>
L.	Compliance:	
1.	Warning Notices Issued:	<u>27</u>
2.	Warning Notices Resolved:	<u>17</u>
3.	Advisory Letters Issued:	<u>16</u>
M.	AOR's Reviewed:	<u>0</u>
N.	Permits Reviewed for NESHAP Applicability:	<u>0</u>

FEES COLLECTED FOR AIR MANAGEMENT DIVISION  
March

	Total Revenue
1. Non-delegated construction permit for an air pollution source	
(a) New Source Review or Prevention of Significant Deterioration sources	\$ -0-
(b) all others	<u>\$ -0-</u>
2. Non-delegated operation permit for an air pollution source	
(a) class B or smaller facility - 5 year permit	\$ -0-
(b) class A2 facility - 5 year permit	<u>\$ -0-</u>
(c) class A1 facility - 5 year permit	<u>\$ -0-</u>
3. (a) Delegated Construction Permit for air pollution source (20% of the amount collected is forwarded to the DEP and not included here)	<u>\$ 840</u>
(b) Delegated operation permit for an air pollution source (20% of the amount collected is forwarded to the DEP and not included here)	<u>\$ 1,560</u>
(c) Delegated General Permit (20% is forwarded to DEP and not included here)	<u>\$ 160</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	\$ 3,800
(b) for structure greater than 50,000 sq ft	<u>\$ 600</u>
7. Notification for asbestos abatement	
(a) renovation 160 to 1000 sq ft or 260 to 1000 linear feet of asbestos	<u>\$ 600.00</u>
(b) renovation greater than 1000 linear feet or 1000 sq ft	<u>\$ 4,500.00</u>
8. Open burning authorization	<u>\$ 6,000.00</u>
9. Enforcement Costs	<u>\$ 1,019.16</u>

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



Roger P. Stewart Center  
 3629 Queen Palm Dr. • Tampa, FL 33619  
 Ph: (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

Executive Director  
 Richard D. Garrity, Ph.D.

**MEMORANDUM**

**DATE:** April 7, 2006

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

**FROM:** Mary Jo Howell, Executive Secretary, Waste Management Division  
 through  
 Hooshang Boostani, Director of Waste Management

**SUBJECT:** **WASTE MANAGEMENT'S MARCH 2006  
 AGENDA INFORMATION**

**A. ADMINISTRATIVE ENFORCEMENT**

1. New cases received	6
2. On-going administrative cases	110
a. Pending	15
b. Active	46
c. Legal	5
d. Tracking Compliance (Administrative)	30
e. Inactive/Referred Cases	14
3. NOI's issued	0
4. Citations issued	0
5. Consent Orders and Settlement Letters Signed	0
6. Civil Contributions to the Pollution Recovery Fund	250
7. Enforcement Costs collected	0
9. Cases Closed	0

**B. SOLID AND HAZARDOUS WASTE**

1. Permits (received/reviewed)	1/0
2. EPC Authorization for Facilities NOT requiring DEP permit	1/1
3. Other Permits and Reports	
a. County Permits	4/2
b. Reports	58/47
4. Inspections (Total)	247
a. Complaints	36
b. Compliance/Reinspections	26
c. Facility Compliance	22
d. Small Quantity Generator	162
e. P2 Audits	1
5. Enforcement	
a. Complaints Received/Closed	38/40
b. Warning Notices Issued/Closed	16/3
c. Compliance letters	51
d. Letters of Agreement	1
e. Agency Referrals	7
6. Pamphlets, Rules and Material Distributed	203

**C. STORAGE TANK COMPLIANCE**

1. Inspections	
a. Compliance	84
b. Installation	10
c. Closure	10
d. Compliance Re-Inspections	10
2. Installation Plans Received/Reviewed	11
3. Closure Plans & Reports	
a. Closure Plans Received/ Reviewed	14
b. Closure Reports Received/Reviewed	10
4. Enforcement	
a. Non-compliance Letters Issued/Closed	38/06
b. Warning Notices Issued/Closed	05/01
c. Cases referred to Enforcement	01
d. Complaints Received/Investigated	2
e. Complaints Referred	00
5. Discharge Reporting Forms Received	01
6. Incident Notification Forms Received	05
7. Cleanup Notification Letters Issued	02
8. Public Assistance	200+



**D. STORAGE TANK CLEANUP**

1. Inspections	50
2. Reports Received/Reviewed	107/129
a. Site Assessment	10/15
b. Source Removal	2/6
c. Remedial Action Plans (RAP's)	8/13
d. Site Rehabilitation Completion Order/ No Further Action Order	6/4
e. Active Remediation/Monitoring	37/40
f. Others	44/51
3. State Cleanup	
a. Active Sites	NO LONGER ADMINISTERED
b. Funds Dispersed	

**E. RECORD REVIEWS - 36**

**F. PUBLIC INFORMATION PROJECTS - 2**

**ACTIVITIES REPORT  
WATER MANAGEMENT DIVISION  
MARCH, 2006**

**A. ENFORCEMENT**

1. New Enforcement Cases Received:	3	
2. Enforcement Cases Closed:	1	
3. Enforcement Cases Outstanding:	48	
4. Enforcement Documents Issued:	5	
5. Recovered costs to the General Fund:	\$625.00	
6. Contributions to the Pollution Recovery Fund:	\$4,500.00	
<u>Case Name</u>	<u>Violation</u>	<u>Amount</u>
a. Himes Office Park	Placement of C/S in service without acceptance letter.	\$500.00
b. Tomato Thyme Corp.	Violation of permit conditions	\$4,000.00

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

1. Permit Applications Received:	49
a. Facility Permit:	12
(i) Types I and II	1
(ii) Types III	11
b. Collection Systems-General	11
c. Collection Systems-Dry Line/Wet Line:	14
d. Residuals Disposal:	0
2. Permit Applications Approved:	42
a. Facility Permit:	5
b. Collection Systems-General:	19
c. Collection Systems-Dry Line/Wet Line:	18
d. Residuals Disposal:	0
3. Permit Applications Recommended for Disapproval:	1
a. Facility Permit:	0
b. Collection Systems-General:	1
c. Collection Systems-Dry Line/Wet Line:	0
d. Residuals Disposal:	0
4. Permit Applications (Non-Delegated):	0
a. Recommended for Approval:	0
5. Permits Withdrawn:	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:	80
a. Facility Permit:	25
b. Collection Systems-General:	33
c. Collection Systems-Dry Line/Wet Line:	22
d. Residuals Disposal:	0
7. Permit Determination:	5
8. Special Project Reviews:	0
a. Reuse:	0
b. Residuals/AUPs:	0
c. Others:	0
<b>C. INSPECTIONS - DOMESTIC</b>	<b>111</b>
1. Compliance Evaluation:	14
a. Inspection (CEI):	1
b. Sampling Inspection (CSI):	13
c. Toxics Sampling Inspection (XSI):	0
d. Performance Audit Inspection (PAI):	0
2. Reconnaissance:	52
a. Inspection (RI):	16
b. Sample Inspection (SRI):	2
c. Complaint Inspection (CRI):	34
d. Enforcement Inspection (ERI):	0
3. Engineering Inspections:	45
a. Reconnaissance Inspection (RI):	3
b. Sample Reconnaissance Inspection (SRI):	0
c. Residual Site Inspection (RSI):	0
d. Preconstruction Inspection (PCI):	11
e. Post Construction Inspection (XCI):	31
f. On-site Engineering Evaluation:	0
g. Enforcement Reconnaissance Inspection (ERI):	0
<b>D. PERMITTING/PROJECT REVIEW - INDUSTRIAL</b>	<b>63</b>
1. Permit Applications Received:	0
a. Facility Permit:	3
(i) Types I and II	0
(ii) Type III with Groundwater Monitoring:	1
(iii) Type III w/o Groundwater Monitoring:	2

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:	0
a. Facility Permits:	0
b. General Permits:	0
4. Permitting Determination:	0
5. Special Project Reviews:	58
a. Phosphate:	5
b. Industrial Wastewater:	11
c. Others:	42
<b>E. INSPECTIONS - INDUSTRIAL</b>	36
1. Compliance Evaluation:	11
a. Inspection (CEI):	11
b. Sampling Inspection (CSI):	0
c. Toxics Sampling Inspection (XSI):	0
d. Performance Audit Inspection (PAI):	0
2. Reconnaissance:	22
a. Inspection (RI):	11
b. Sample Inspection (SRI):	0
c. Complaint Inspection (CRI):	11
d. Enforcement Reconnaissance Inspections (ERI):	0
3. Engineering Inspections:	3
a. Compliance Evaluation (CEI):	3
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:	36
a. Domestic:	19
(i) Received:	9
(ii) Closed:	10
b. Industrial:	17
(i) Received:	10
(ii) Closed:	7
2. Warning Notices:	22
a. Domestic:	17
(i) Received:	9
(ii) Closed:	8
b. Industrial:	5
(i) Received:	5
(ii) Closed:	0
3. Non-Compliance Advisory Letters:	28
4. Environmental Compliance Reviews:	169
a. Industrial:	60
b. Domestic:	109
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>	311
1. Air Division:	103
2. Waste Division:	0
3. Water Division:	16
4. Wetlands Division:	0
5. ERM Division:	159
6. Biomonitoring Reports:	9
7. Outside Agency:	24
<b>I. SPECIAL PROJECT REVIEWS:</b>	8
1. DRIs:	5
2. ARs:	1
3. Technical Support:	2
4. Other:	

**EPC WETLANDS MANAGEMENT DIVISION  
BACKUP AGENDA  
March 2006**

A. General	Totals
1. Telephone Conferences	813
2. Unscheduled Citizen Assistance	79
3. Scheduled Meetings	258
4. Correspondence	587
B. Assessment Reviews	
1. Wetland Delineations	105
2. Surveys	44
3. Miscellaneous Activities in Wetland	47
4. Impact/ Mitigation Proposal	23
5. Tampa Port Authority Permit Applications	40
6. Wastewater Treatment Plants (FDEP)	1
7. DRI Annual Report	0
8. Land Alteration/Landscaping	2
9. Land Excavation	3
10. Phosphate Mining	5
11. Rezoning Reviews	43
12. CPA	1
13. Site Development	62
14. Subdivision	99
15. Wetland Setback Encroachment	6
16. Easement/Access-Vacating	0
17. Pre-Applications	48
18. On-Site Visits	215
C. Investigation and Compliance	
1. Complaints Received	56
2. Complaints Closed	55
3. Warning Notices Issued	23
4. Warning Notices Closed	8
5. Complaint Inspections	82
6. Return Compliance Inspections	61
7. Mitigation Monitoring Reports	59
8. Mitigation Compliance Inspections	56
9. Erosion Control Inspections	67
D. Enforcement	
1. Active Cases	37
2. Legal Cases	2
3. Number of "Notice of Intent to Initiate Enforcement"	1
4. Number of Citations Issued	1
5. Number of Consent Orders Signed	5
6. Administrative - Civil Cases Closed	8
7. Cases Referred to Legal Department	2
8. Contributions to Pollution Recovery	\$21,900.00
9. Enforcement Costs Collected	\$913.00

## EPC WETLANDS MONTHLY WORKSHEET

Category	Enforcement	Compliance	Assessment	Engineering	Admin	Totals
Telephone Conferences			328	26	459	813
Unscheduled Citizen Assistance		3	47	3	26	79
Scheduled Meetings			113	53	92	258
Correspondence	22	44	518	3		587
<b>Assessment Reviews</b>						
Wetland Delineations			105			105
Surveys			44			44
Miscellaneous Activities in Wetland			47			47
Impact/ Mitigation Proposal			23			23
Tampa Port Authority Permit Applications			40			40
Wastewater Treatment Plants (FDEP)			1			1
DRI Annual Report						0
Land Alteration/Landscaping			2			2
Land Excavation			3			3
Phosphate Mining			5			5
Rezoning Reviews			43			43
CPA			1			1
Site Development			62			62
Subdivision			99			99
Wetland Setback Encroachment			6			6
Easement/Access-Vacating						0
Pre-Applications			48			48
On-Site Visits		9	206			215
<b>Investigation and Compliance</b>						
Complaints Received		56				56
Complaints Closed		55				55
Warning Notices Issued		23				23
Warning Notices Closed		8				8
Complaint Inspections		82				82
Compliance Inspections		61				61
Mitigation Monitoring Reports		44		15		59
Mitigation Compliance Inspections		56				56
Erosion Control Inspections		67				67
<b>Enforcement</b>						
Active Cases	37					37
Legal Cases	2					2
Number of "Notice of Intent to Initiate Enforcement"	1					1
Number of Citations Issued	1					1
Number of Consent Orders Signed	5					5
Administrative - Civil Cases Closed	8					8
Cases Referred to Legal Department	2					2
Contributions to Pollution Recovery	21900					\$21,900
Enforcement Costs Collected	913					\$913

**ENVIRONMENTAL PROTECTION COMMISSION  
OF HILLSBOROUGH COUNTY  
POLLUTION RECOVERY TRUST FUND  
AS OF 03/31/06**

Balance as of 10/01/05	*	\$1,491,768
Interest Accrued		33,497
Deposits	FY06	189,369
Disbursements	FY06	146,814
Pollution Recovery Fund Balance		<u>\$1,567,820</u>

**Old Encumbrances**

Remedial Illegal Dump Asbestos (66)	4,486
USF Seagrass Restoration (99)	1,549
HCC Seagrass Restoration	3,319
Agr Pesticide Collection (100)	18,355
Riverview Library Invasive Plant Removal	10,000
Simmons Park Invasive Plant Removal	60,000
Water Drop Patch/Girl Scouts	7,350
Artificial Reef Program	92,551
Pollution Prevention/Waste Reduction (101)	24,225
PRF Project Monitoring	25,074
Total	<u>246,909</u>

**FY2006 Approved Projects**

HCC Land Based Sea Grass Nursery	20,000
Seagrass Restoration & Longshore Bar Recovery	75,000
Nature's Classroom Phase III	188,000
2005 State of the River	4,727
Seawall Removal Fort Brooke Park	100,000
Analysis of Sources of Fecal Indicator Bacteria	125,000
Pollution Monitoring Pilot Project	45,150
Industrial Facilities Stormwater Inspection Program	28,885
Agriculture Pesticide Collection	24,000
Agriculture Best Mgmt Practice Implementation	150,000
Total	<u>760,762</u>

**Total of Encumbrances**

\$1,007,671

**Minimum Balance**

120,000

**Balance Available 3/31/06**

**\$440,149**

**\* 10-002-910 Projects included in 10/1/05 Balance**

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
Natures Classroom Capital Campaign	44,000
Total	<u>\$ 583,627</u>



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



Roger P. Stewart Center  
 3629 Queen Palm Dr. • Tampa, FL 33619  
 Ph: (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

Executive Director  
 Richard D. Garrity, Ph.D.

ENVIRONMENTAL PROTECTION COMMISSION  
 OF HILLSBOROUGH COUNTY  
 ANALYSIS OF GARDINIER SETTLEMENT TRUST FUND  
 AS OF MARCH 31, 2006

Fund Balance as of 10/01/05	\$ 608,646
Interest Accrued	9,103
Disbursements FY06	154,231

Fund Balance	\$ 463,518
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Encumbrances Against Fund Balance:

SP625 Marsh Creek/Ruskin Inlet	\$ 47,500
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	245,870

Total of Encumbrances	\$ 463,518
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Fund Balance Available March 31, 2006	\$ - 0 -
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## EPC Agenda Item Cover Sheet

**Date of EPC Meeting:** April 20, 2006

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

**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 April 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:** April 2006 EPC Legal Case Summary

**EPC LEGAL DEPARTMENT MONTHLY REPORT**  
**April 2006**

**A. ADMINISTRATIVE CASES**

**NEW CASES [ 0 ]**

**EXISTING CASES [ 6 ]**

**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. The applicant has filed a Chapter 70, F.S. dispute resolution challenge of the County's re-zoning decision. The parties have agreed to wait until at least June 9, 2006 for resolution of the dispute resolution proceeding before moving this case forward. (AZ)

**IMC Phosphates, Inc. v. EPC** [LMC04-007]: 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)

**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 April 11, 2006. The parties have sought an additional extension of time to continue negotiations. The parties are in negotiations to resolve the case. (AZ)

**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. The Appellant filed an appeal on January 4, 2006 challenging the denial of wetland impacts. The matter has been referred to a Hearing Officer and the parties are progressing through discovery. The final hearing has been set for May 1, 2006 and the parties are preparing for the hearing. (AZ).

**Gulf Coast Recycling v. EPC and DEP** [LCHP06-002]: On January 4, 2006, the EPC received a petition for hearing from Gulf Coast Recycling regarding certain conditions in a draft air operations permit the EPC issued to them. The parties are meeting to try to agree upon appropriate conditions to minimize the release of lead to the environment. (RM)

**Florida Veal Processors v. EPC** [LCHP06-004]: Florida Veal Processors, located in Wimauma, operates a waste water treatment system associated with the meat processing facility. The EPC issued a Notice of Violation, under its state delegated authority, for multiple long standing violations. Florida Veal Processors filed a petition for hearing to dispute the allegations. The parties are negotiating a settlement. (RM)

**RESOLVED CASES** [ 0 ]

**B. CIVIL CASES**

**NEW CASES** [ 0 ]

**EXISTING CASES** [ 17 ]

**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 property owner had a portion of her property taken by the City of Tampa and upon disbursement of the funds the owner will have the USTs removed from the site and pay the EPC its remaining liens. (see City of Tampa case below) A closure application has been submitted and the EPC staff anticipates the case will be resolved by May 2006. (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. The EPC has entered into a tentative settlement regarding the violations contingent upon the sale of the property in the near future. The case will remain open until such time as the property is conveyed. (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. The facility is no longer operating, thus the staff is exploring enforcement options. (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. Riverwalk MHP executed a settlement (Consent Order) and EPC is reviewing it in anticipation of execution. (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' lawsuit, 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 moved to dismiss the cases. (RT)

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

**Temple Crest Automotive** [LEPC05-009]: Authority was granted on April 21, 2005 to pursue appropriate legal action against Juan and Rafaela Lasserre to enforce the agency requirement that a limited environmental assessment report and a plan to properly contain and manage oil to prevent future discharges to the environment be submitted to EPC. On October 5, 2004 EPC staff issued a Citation and Order to Correct to Juan B. and Rafaela Lasserre for violations of Chapters 61-701 and 61-730, F.A.C. and Chapters 1-1, 1-5, and 1-7, Rules of the EPC. Mr. and Mrs. Lasserre did not appeal the Citation and it became a final agency order on October 28, 2004. Until April 21, 2005, EPC staff had

received no response to their attempts to resolve the matter. The case was tentatively settled in December 2005 but the EPC staff are still waiting for the completion of the corrective actions. (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. This case should be resolved by the property owner conducting the necessary corrective actions in the related case above, paying the EPC its costs and the EPC executing a release and satisfaction. (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. The appeal has been transferred to the Second District Court of Appeal and the EPC is waiting for the next step. (AZ)

**BOJ Corporation** [LEPC06-005]: Authority was granted in February 2006 to take appropriate action against BOJ Corporation for violations concerning the operation of underground storage tanks on a property used for a gasoline service station. The EPC is preparing to file a lawsuit for the referenced violations. (AZ)

#### RESOLVED CASES [ 0 ]

#### C. OTHER OPEN CASES [ 20 ]

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.

**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. On February 10, 2006 the Petitioner filed for a fourth extension. The request was granted and Petitioner has until April 21, 2006 to file a petition. Tampa Bay Shipbuilding is continuing to work with EPC to resolve any remaining issues and resolution is anticipated prior to the April 21<sup>st</sup> deadline. (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)

**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. The issue regarding the wetland survey line has been resolved. No further action is anticipated and the file has been closed. (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. Permits for Murphy Oil, Inc. were issued on March 2, 2006 and the case has been closed. (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 was granted. The Petitioner had until February 10, 2006 to file a petition. On January 27, 2006, the Petitioner filed a third request for extension of time. The request was granted and the Petitioner has until April 11, 2006 to file a petition in this matter. An additional extension was requested on March 27, 2006. (RT)

**DiMare Ruskin, Inc.** [LEPC05-034] On November 3, 2005, DiMare Ruskin, Inc. filed a second 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 March 6, 2006, to file a petition. DiMare executed a settlement, and the EPC is awaiting receipt of the settlement to review and execute. (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. The Company filed an untimely second request for extension which the EPC dismissed, but the Company was able to explain why the petition should be considered timely, thus the parties continue to negotiate permit conditions. (RM)

**Eastern Associated Terminals, Inc.** [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. The Company filed an untimely second request for extension which the EPC dismissed with leave to amend and they are now seeking to have the request deemed timely due to excusable neglect. The Company failed to show excusable neglect in a subsequent filing, thus the request for an extension to file for hearing was denied, but the parties are working on revised permit language, thus this case is closed. (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. Petitioner filed a second request for extension of time on March 23, 2006. The request was untimely and an order was issued denying the request with leave to amend. Petitioner has until April 10, 2006 to show why the petition should be considered timely. (RT)

**Kinder Morgan v. EPC** [LCHP06-003]: On February 3, 2006, the EPC issued an emergency order to Kinder Morgan to immediately cease all material handling that may result in excessive dust emissions or runoff to Waters of the County. Kinder Morgan filed an extension of time request to challenge the order. Kinder Morgan handles all types of dry goods and mineral at the Port of Tampa, adjacent to the TECO Gannon Station. Their recent handling of bauxite led to fouling of the TECO facility. The EPC and Kinder Morgan are seeking to resolve the matter via a Consent Order. On February 24, 2006 Kinder Morgan filed a request for extension of time to file a petition for administrative hearing. The request was granted and the Petitioner has until April 10, 2006 to file a petition. On April 10, 2006 Petitioner filed a request for a second extension of time, the request was granted and the Petitioner has until May 10, 2006 to file a challenge.(RT)

**Irshaid Oil, Inc.** [LEPC06-006]: On March 15, 2006, Mr. Nasser Irshaid filed a request for extension of time to file an appeal to challenge a Citation of Violation and Order to Correct issued by EPC on February 28, 2006, regarding



waste issues. The Legal Dept. granted the request and provided the Appellant with a deadline of June 19, 2006 in which to file an appeal. (AZ)

**Alcoa Extrusions, Inc.** [LEPC06-007]: On March 20, 2006, Alcoa Extrusions, Inc. filed a request for an extension of time to file a petition for an administrative hearing concerning a Title V draft Air permit. The Legal Dept. granted the extension request and the Petitioner has until May 22, 2006 to file a petition. (RT)

**ConocoPhillips Company** [LEPC06-008]: On March 31, 2006, ConocoPhillips filed a request for an extension of time to file a Notice of Appeal concerning a Citation and Order to Correct which was issued by EPC on February 28, 2006, regarding Waste issues. The Legal Dept. granted the request and the Appellant has until May 1, 2006 to file an appeal. (AZ)

**Santa Sweets, Inc.** [LEPC06-009]: On March 31, 2006, Santa Sweets, Inc. filed a request for an extension of time to file a Notice of Appeal concerning a Citation and Order to Correct issued by EPC on March 22, 2006, regarding wetland issues. The Legal Dept. granted the request and the Appellant has until June 12, 2006 to file an appeal. (AZ)

**Eastern Associated Terminals, Inc.** [LEPC06-010]: A revised Title V draft Air permit was issued by EPC on March 30, 2006. On April 7, 2006, Eastern Associated Terminals filed a request for an extension of time to file a petition for Administrative Hearing. The Legal Dept. granted the request and the Petitioner has until July 12, 2006 to file a petition. (RT)



## EPC Agenda Item Cover Sheet

**Date of EPC Meeting:** April 20, 2006

**Subject:** Request for Authority to Initiate Litigation regarding Waste Enforcement Case – Miley's Radiator Shop

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

**Division:** Waste Management Division

**Recommendation:** Grant authority to pursue appropriate legal action and settlement authority in regards to Miley's Radiator Shop, Calvin Miley, Jr., Calvin Miley, Sr., and Brenda Joyce Miley Tyner.

**Brief Summary:** The above referenced property has waste management violations for improper storage and handling of car repair related wastes on the property. Based on the noncompliance at the facility and the refusal to take corrective actions EPC staff requests authority to file a civil lawsuit to compel compliance.

**Background:** EPC staff observed local, state and federal waste handling law violations at a Miley's Radiator Shop located at 4324 E. Broadway, Tampa, FL 33605. The radiator shop is owned and operated by Calvin Miley, Jr. and Calvin Miley, Sr. The property is owned by Brenda Joyce Miley Tyner. On March 28, 1997, EPC staff issued Warning Notice #18887 to the above referenced individuals for violations of Sections 16 and 17, Chapter 84-446, Laws of Florida, Chapters 1-5 and 1-7, Rules of the EPC, and Chapters 62-701 and 62-730, Florida Administrative Code. EPC staff had observed solid wastes, open drums, and visibly stained soils throughout the facility, and waste antifreeze and radiator flush water was discharging to the septic system, all of which may contribute to soil and water contamination. Numerous attempts over the years have been made to obtain compliance at this facility. Although some of the solid waste has been removed from the facility, there still exists unauthorized solid waste at the property. The Miley's have claimed a financial inability to pay but have not provided documentation to prove the claim. On October 7, 2005, EPC staff issued a Citation of Violation and Order to Correct Violation (Citation) which ordered: 1) a waste determination on the sediment and the liquid or sludge in the septic tank; 2) a Preliminary Contamination Assessment Plan (PCAP) be submitted within 45 days; and 3) a Preliminary Contamination Assessment Report (PCAR) be submitted within 60 days. The Citation was not appealed and became a Final Order of the Commission by operation of law on October 28, 2005. To date a waste determination has not been made and a PCAP/PCAR has not been performed and submitted to EPC.

**Attachments.**



## EPC Agenda Item Cover Sheet

**Date of EPC Meeting:** April 20, 2006

**Subject:** Request for Authority to File Suit regarding Tranzparts, Inc.;  
EPC Enforcement Case – #03-05579.

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

**Division:** Waste Management Division

**Recommendation:** Grant Authority to pursue appropriate legal action and settlement authority in regards to Tranzparts, Inc., Scott Yaslow, and Ernesto and Judith Baizan.

**Brief Summary:** Tranzparts, Inc. operates a transmission smelting facility on property that is owned by and leased from Ernesto and Judith Baizan, located at 4709 S. 30<sup>th</sup> Avenue. The facility is in violation of Chapter 84-446, the EPC Act and Chapters 1-5 Water Pollution and 1-7, Solid Waste Management for discharging oil/transmission fluid to the ground.

**Background:** Tranzparts, Inc. operates a transmission smelting facility on property that is owned by and leased from Ernesto and Judith Baizan, located at 4709 S. 30<sup>th</sup> Avenue. Scott Yaslow is the President of Tranzparts, Inc. The facility is in violation of Chapter 84-446, the EPC Act and Chapters 1-5 Water Pollution and 1-7, Solid Waste Management for discharging oil/transmission fluid to the ground.

An inspection of the facility by EPC staff revealed numerous oil covered transmissions stored outside, standing water containing an oily sheen, and a thick oil-based sludge on the dry concrete areas. Staff also observed a garden hose leading from the standing water to the neighboring property. On August 26, 2003, EPC issued a Warning Notice to Tranzparts to cease the discharge of contaminated water offsite, to properly store transmissions, and containerize and properly dispose of standing stormwater/wastewater and sludge. On September 24, 2004, a Citation of Violation and Order to Correct Violation (Citation) was issued to Tranzparts which ordered the facility to: 1) cease the discharge of any contaminated stormwater/wastewater offsite, 2) implement a plan to prevent the discharge of oil/transmission fluids from transmissions stored on site and, 3) submit a Preliminary Contamination Assessment Plan within 45 days. The Citation was not appealed and became a Final Order of the Commission on October 15, 2004. On October 7, 2004, EPC staff issued a Citation of Violation and Order to Correct Violation (Citation) for the same violations to Ernesto and Judith Baizan. The Citation was not appealed and became a Final Order of the Commission November 2, 2004. A

follow-up inspection jointly conducted with the Department of Environmental Protection (DEP) on April 12, 2006, revealed that the facility is still in violation and conditions have worsened. Due to the worsening condition, the EPC staff expedited this request for authority and the letter noticing violators of EPC Board meeting will be less than the standard 10 days that the Commission prefers. DEP intends to take action also.

**List of Attachments:** None



## EPC Agenda Item Cover Sheet

**Date of EPC Meeting:** April 20, 2006

**Subject:** Conduct a public hearing to approve amendments to a Public Noticing section under Chapter 1-2 (Administrative Procedures Rule), Rules of the EPC

**Consent Agenda**

**Regular Agenda**

**Public Hearing** X

**Division:** Legal Department

**Recommendation:**

Conduct a public hearing to consider amendments to Section 1-2.051 ("Public Notice Requirements" of the Administrative Procedures Rule), Rules of the EPC.

**Brief Summary:**

Pursuant to the EPC Act, the EPC Board must hold a noticed public hearing to approve a rule amendment. The EPC staff requests that the EPC Board approve the amendments in the attached Section 1-2.051 ("Public Notice Requirements" of the Administrative Procedures Rule), Rules of the EPC, at the regularly scheduled meeting on April 20, 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 March 16, 2006, the EPC Board conducted a rule amendment public hearing regarding proposed amendments to Chapter 1-2 (Administrative Procedures Rule). The EPC Board approved the proposed rule with one exception. The EPC Board requested staff to consult with the Tampa Bay Builder's Association concerning one section of the rule – Section 1-2.051 ("Public Notice Requirements" of the Administrative Procedures Rule) and then bring the rule section back for public hearing on April 20, 2006.

The EPC Legal Department has consulted with the Tampa Bay Builder's Association and provides a newly updated rule section for a rule amendment public hearing. The EPC staff has not received any objections from the Tampa Bay Builder's Association concerning the new proposed language. The rule amendment will provide for more effective procedural due process for potentially adversely affected parties. The proposed rule section is attached and will be fully discussed at the April EPC Board meeting. The staff has issued appropriate notices of the rule adoption process.

**List of Attachments:** Draft proposed Section 1-2.051, Rules of the EPC

**1-2.051 PUBLIC NOTICE  
REQUIREMENTS**

(a) General Noticing. Any applicant for any of the following initial permits or initial authorizations from the Executive Director shall provide notice to citizens who may be affected by the issuance of the permit or authorization: wastewater permits in excess of 100,000 gallons discharge per day; authorizations issued under Rule 1-7.202(1)(c) or (d); authorizations issued under Rule 1-10.05B; and air construction permits issued under Chapter 1-3. Public notification required by any other law that meets this noticing rule shall be sufficient and this rule shall not require any duplicate notice. Compliance with noticing requirements under Stationary Air Pollution Sources Chapter 1-3, Rules of the EPC shall serve as compliance with this sub-section (a). The notice must include posting a sign in a conspicuous place upon the property which is the subject of the permit or authorization. The posted sign must be no smaller than a 8.5 inch by 11 inch sign and must be legible from the nearest public road. The notice format shall be available by contacting the staff but shall be posted by the applicant at the applicant's expense no later than 15 calendar days after submittal of any application to the Executive Director. Signage must remain on the property for at least 30 calendar days but must be removed by the applicant no later than 30 calendar days after the issuance or denial of the permit or authorization sought. The notice must include the following: the location of the proposed site for permit or authorization; the type of permit or authorization requested; and how to obtain additional information from the staff regarding the proposed permit or authorization. Notice under this subsection (a) is not required for the following: application for renewal, modification, or transfer of the aforementioned permits or authorizations, and application for any initial operating permit that follows issuance of a construction permit at the same facility for any of the aforementioned permits or authorizations.

(b) Projects of Heightened Public

Concern. As further conditioned below, subsection (b) applies to those initial permits and initial authorizations referred to in subsection (a), and also to their renewals, modifications, transfers, and subsequent operating permits (collectively referred to as "activity"). For those activities which, because of their size, potential effect on the environment or the public, controversial nature, or location, are reasonably expected by the Executive Director to result in a heightened public concern or likelihood of request for a Chapter 120 petition or an appeal pursuant to section 9 of Chapter 84-446, Laws of Florida, the following is required:

(1) Within 20 calendar days of notice from the Executive Director of the potential for heightened public concern, the applicant shall provide additional notice at the applicant's expense by mail or hand delivery to the following: (i) immediately adjacent property owners; (ii) all neighborhoods included in the Registry of Neighborhood Organizations pursuant to the Hillsborough County Neighborhood Bill of Rights, adopted in the Land Development Code in section 10.03.02, that are located within one mile of the activity; and (iii) all neighborhood organizations registered with the Commission which lie within one mile of the activity. The staff will provide the applicant with both potentially affected neighborhood organization lists and, within 10 calendar days of receipt of the lists, the applicant shall provide the staff written evidence that the adjacent property owners and neighborhood organizations were notified. The notice must include the following: the location of the proposed site for the activity; the type of activity requested; and how to obtain additional information from the staff regarding the proposed activity.

(2) Within 20 calendar days of notice from Executive Director of the potential for heightened public concern, the applicant shall also post additional signage that meets the following criteria: the posted sign must be no smaller than a 30 inch by 48 inch sign and must be legible from the nearest public road. The

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

notice format shall be provided by the staff but shall be posted by the applicant at the applicant's expense. Signage must remain on the property for at least 30 calendar days but must be removed by the applicant no later than 30 calendar days after the denial or issuance of the activity being sought. The notice must include the following: the location of the proposed site for the activity; the type of activity requested; and how to obtain additional information from the staff regarding the proposed activity.

(3) Upon request from any substantially affected person or the Executive Director, the staff may also conduct a public workshop to be held no later than 10 calendar days before the intended agency action is issued.

(4) Upon issuance of the agency action from the Executive Director the applicant shall publish at the applicant's expense, in a newspaper of general circulation, as defined in Chapter 50, F.S., within the affected area a notice of agency action or intended agency action. The notice must include the notice of rights so that substantially affected parties may have the opportunity to file a petition or appeal. The requirements in this subsection are in addition to any other requirements contained in any other rules or laws.

(c) **Processing Timeframes.** Any form of notice or workshop required under subsections (a) or (b) shall not extend any timeframes for reviewing applications under any applicable laws governing application processing.

Section History – adopted \_\_\_\_\_, 2006



## EPC Agenda Item Cover Sheet

**Date of EPC Meeting:** April 20, 2006

**Subject:** Legislative Update

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

**Division:** Legal Department

**Recommendation:** Informational only.

**Brief Summary:** The EPC staff has been reviewing dozens of environmental and procedural bills that have been proposed during this Legislative session. Two bills have raised the most concern with the EPC and the EPC has sent letters in opposition to them: The County Preemption Bill - SB 1608 and HB 949 and the Wetland Mitigation and Permitting Bill - HB 7163.

**Background:** In conjunction with the County's Office of Public Affairs, the EPC staff has reviewed dozens of environmental and procedural bills that are currently proposed in the Florida Legislature. Currently two pieces of legislation stand out that may impact the EPC's and/or the County's functions.

First is the **County Preemption** bill proposed in **Senate Bill 1608 and House Bill 949** which are almost identical bills that propose to eliminate county regulations and special acts governing land use and annexation as it applies within city boundaries, unless the majority of the voters in the county and the city separately vote to have those regulations apply in the city. The bill is supported by the Florida League of Cities and sponsored by Sen. Bennet and Rep. Arza. The cities are supporting this bill in an effort to limit county authority on land use matters in the cities; specifically cities opposed to county efforts to regulate municipal land-use decisions and the cities' ability to address urban redevelopment. The EPC Special Act is not designed to regulate land use or annexation, thus we have an argument that the bill may not affect EPC. However it can be argued that many of EPC's regulations are "land development regulation[s]." Therefore, the Act would not be enforceable within the city boundaries. Staff recommended and the Commission approved on March 16, 2006, to send a letter in opposition to the bills. Since that time, HB 949 was amended that clarifies that it would not limit counties from regulating environmental impacts within city boundaries. SB 1608 has not been similarly amended.

The second bill is the **Wetland Mitigation and Permitting Bill in House Bill 7163**. The bill mainly deals with wetland permitting in the Panhandle, but includes objectionable state-wide language for local government wetland regulatory programs. This bill appears to limit or prohibit local governments from enforcing wetland regulations which are stricter than the state Department of Environmental Protection (DEP) or the Water Management Districts (WMD). While a straight denial of a wetland

impact by this local program is not common, this bill appears to give local programs no autonomy to deny a wetland impact if the DEP or WMD have approved it with adequate mitigation. The bill would allow a greater degree of wetland impacts than what is currently permitted in Hillsborough County and likely in other jurisdictions as well.

Local programs have implemented UMAM and it gives more certainty and uniformity to the regulated community as to what type of mitigation they will have to provide to all state and local governments. However, this new proposal is a drastic measure that may strip local programs of the ability to regulate the most sensitive of wetland impacts. On March 28, 2006, Commissioner Storms issued a letter to this effect to our local Legislative Delegation. The bill is successfully working its way through the House Committees.

**List of Attachments: None**





## EPC Agenda Item Cover Sheet

**Date of EPC Meeting:** April 20, 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:**  **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.

**ackground:** During the EPC meeting dated November 17, 2005, the Commission directed EPC staff to intervene in the Honeywell International vs. Florida Department of Environmental Protection (FDEP) administrative case regarding the Remedial Action Plan Modification for the cleanup of the former Honeywell site at Waters Ave. The FDEP case is OGC Case Nos. 83-0401 and 00-1722.

The issues in the case are whether the Financial Assurance monetary amount required by the FDEP is the appropriate amount for the remediation of the property and whether the Remedial Action Plan required by the FDEP is appropriate for the cleanup of the soil underneath the building and for Gold Lake. Honeywell challenges both of these determinations.

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. The final hearing was scheduled for April 3rd through April 12th, 2006. On March 31, 2006 the assigned Administrative Law Judge granted the FDEP and property owner's joint request for a continuance of the case. The parties are in intensive confidential settlement discussions and it is anticipated by all parties that at least some disputed issues will be resolved in the matter. These settlement discussions are intended to expedite the litigation and also to expedite the cleanup of the subject site. The administrative hearing has been re-set for May 1st through the 12th, 2006 in Tallahassee. Although the parties are in negotiation, the case is still progressing through discovery.

**List of Attachments:** None



## EPC Agenda Item Cover Sheet

**Date of EPC Meeting:** April 20, 2006

**Subject:** Clean Air Month

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

**Division:** Air Management

**Recommendation:**

Read proclamation into the record declaring May as Clean Air Month in Hillsborough County.

**Brief Summary:**

Staff is asking the Board to declare May as Clean Air Month in Hillsborough County. The purpose of this is to educate the public on the importance of clean air and how the personal choices they make each day affect their environment. The theme this year is "Put the Brakes on Asthma." Mr. Charles R. Black, President of TECO, Dr. Schnapf with the USF Department of Pediatric Pulmonology, and Horace Copeland of the EPC will be accepting copies of the proclamation.

**Background:**

This is part of a national initiative to focus on the importance of clean air. EPC has been an active participant for the past 34 years. Each May staff hosts public forums such as this year's Clean Air Fair to be held at Poe Plaza on May 4, 2006. They also do many classroom presentations in conjunction with the Hillsborough County Schools.



## EPC Agenda Item Cover Sheet

**Date of EPC Meeting:** April 20, 2006

**Subject:** 2006 Hillsborough Legislative Delegation Tour

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

**Division:** Executive Director's Report

**Recommendation:** N/A

**Brief Summary:** The 2006 Hillsborough Legislative Delegation tour is scheduled for Thursday, May 18, 2006 from 8:30 a.m. – 12 p.m., departing from the Roger P. Stewart Center. The escorted tour will provide an opportunity for guests to learn more about EPC's role in protecting the natural resources of the county and will highlight several environmental sites of interest.

**Background:** N/A

**List of Attachments:** N/A



## EPC Agenda Item Cover Sheet

**Date of EPC Meeting:** April 20, 2006

**Subject:** Earth Day 2006

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

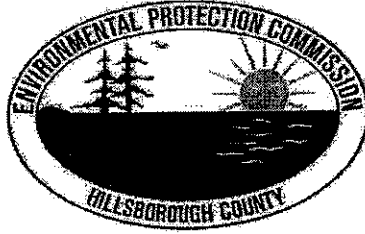
**Division:** Executive Director's Report

**Recommendation:** N/A

**Brief Summary:** Earth Day Tampa Bay is scheduled to take place on April 22 at Lowry Park. The theme for Earth Day Tampa Bay is "*Save Energy - You Have the Power*". Thousands are expected to attend the celebration, which will be the main Earth Day event in the City of Tampa and Hillsborough County. Festivities will include a flotilla of canoes and kayaks, children's craft and activity area, guided nature walks, live music and other entertainment. The EPC will have an environmental display at the event, featuring educational materials and a hybrid vehicle.

**Background:** N/A

**List of Attachments:** N/A



## EPC Agenda Item Cover Sheet

**Date of EPC Meeting:** April 20, 2006

**Subject:** Transmittal of EPC staff technical report on setbacks/buffers to PGMD and Planning Commission staffs

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

**Division:** Environmental Resources Management (ERM)

**Recommendation:** None. This is an information item only; no Board action is requested.

**Brief Summary:** Pursuant to Policy 19.1 of the CARE element of the existing Comprehensive Plan, EPC staff has been asked by PGMD to perform a technical review of setbacks and buffers that are being used in other regions (of Florida and the U.S.) to protect hydrologic and ecological integrity of wetlands, lakes and other water bodies and to recommend scientifically defensible setbacks. That work has been completed, and the technical report has been forwarded to the Planning Commission for possible inclusion in the next round of Comprehensive Plan amendments.

**Background:** Policy 19.1 of the Conservation and Aquifer Recharge Element (CARE) of the existing Comprehensive Plan states:

“The County shall request the Environmental Protection Commission (EPC) to evaluate existing scientific studies regarding construction setback distances and buffers needed to maintain the hydrological and biological integrity of wetlands and water bodies (e.g. SJRWMD Wekiva River study) and shall request EPC to recommend appropriate scientifically defensible setback distances and buffers from wetlands and water bodies. Within one year of such recommendations, the County shall amend its land development regulations to the extent that such setback distances and buffers are determined to be warranted. Until amended per this policy, all current setbacks shall remain in effect.”

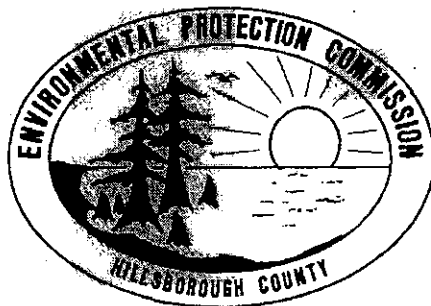
In June 2005, EPC staff received a written request from PGMD to initiate this technical review process. Staff performed the requested review, and has transmitted the requested technical report to PGMD and Planning Commission staff for evaluation and potential use in the next round of Comprehensive Plan amendments. The process for evaluating potential Comp Plan amendments includes two public workshops and an adoption hearing before the BOCC.

In carrying out the technical review, EPC staff evaluated a combination of seventeen scientific studies and land development regulations from across the United States and produced a draft report. An ad hoc peer review committee, which included SWFWMD staff and an independent consultant, reviewed that document and provided recommendations which were incorporated into a revised report that was transmitted to PGMD and the Planning Commission.

The technical studies that were reviewed by EPC staff provided considerable scientific support for a minimum buffer width of 50 feet. Currently, the Hillsborough County Land Development Code requires a 30-foot setback to be maintained around Conservation Areas (which consist primarily of freshwater water bodies and wetlands) and a 50-foot wetland setback to be maintained around Preservation Areas (which consist primarily of coastal water and wetlands, along with potable water sources). Based on the technical review, EPC staff is recommending that – as an immediate measure – Hillsborough County consider increasing the minimum buffer width for Conservation Areas in the Land Development Code from 30 feet to 50 feet. As a longer-term action, staff also recommends that the County consider developing a Technical Manual documenting the procedures to be used for establishing technically-appropriate setback distances and buffers on a project-specific basis.

**Attachment:** EPC staff technical report.

COMMISSION  
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EXECUTIVE DIRECTOR  
RICHARD D. GARRITY, Ph.D

## MEMORANDUM

Date: January 25, 2006

From: Gordon A. Leslie, P.G. <sup>PA</sup>

Through: Gerold Morrison, <sup>GM</sup> Jadell Kent, <sup>JK</sup> and Tony D'Aquila, EPC <sup>TD</sup>

Through: Rick Garrity, EPC

To: Bruce McClendon and Dan Blood, PGMD

Subject: Administrative Referral for EPC to evaluate existing scientific studies regarding construction setback distances and buffers needed to maintain the hydrological and biological integrity of wetlands and water bodies in Hillsborough County.

Pursuant to the subject Administrative Referral, please find attached a Technical Memorandum prepared by the staff of the Environmental Protection Commission. We look forward to working with the public, the Planning and Growth Management department, the Planning Commission, and other interested County departments, in moving forward with this important task.

CC: Shawn College, Planning Commission

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



**Developing Scientifically-Based Ecological Buffers to  
Protect the Watersheds in Hillsborough County,  
Florida**



**Prepared by the Environmental Protection of Hillsborough County**

**January 2006**



## Abstract and Acknowledgments

In response to an Administrative Referral from Hillsborough County on a Comprehensive Plan requirement for the Environmental Protection Commission of Hillsborough County to evaluate existing scientific studies on setbacks and buffers, staff has carried out a literature search, and produced a Technical Memorandum (please see attached), on the use of ecological buffers for watershed protection around the United States. The focus was primarily on the eastern seaboard, which included parts of the state of Florida.

Within the state of Florida, some outstanding work in the area of establishing setbacks and ecological buffers in central Florida, particularly in the Wekiva River Basin and surrounding areas, was drawn on considerably. The St. Johns River Water Management District is to be commended for their prominent role in that effort, as is the University of Florida Center for Wetlands.

Outside of Florida, along with Georgia, New Jersey, and Wisconsin, some outstanding work done in Maryland and the Chesapeake Bay area was especially valuable in producing some of the recommendations in this report.

Our findings indicate considerable support in the literature for a minimum buffer width of 50 feet. Based on this, we would recommend that as a more immediate or near-term measure, Hillsborough County considers increasing its minimum buffer width in the Land Development Code from 30 feet to 50 feet. Buffers may be wider than 50 feet, depending on the results of project-specific and waterbody/watershed specific evaluations.

As a longer term action for Hillsborough County, we would recommend that the County develop a process for writing a Technical Manual for use in documenting the procedures and scientific methodologies to be used for establishing ecological buffers on a project-by-project basis.

Staff recognizes that this is essentially the beginning of a public process on setting buffers for Hillsborough County watersheds that will likely transpire over the next couple of years. Through the forthcoming round of amendments to the County Comprehensive Plan, we look forward to a good deal of discussion on this topic, both from within the County, and from interested parties outside of County government, prior to the implementation of any of the recommendations coming from this effort.

Staff of the Environmental Protection Commission of Hillsborough County would like to acknowledge the valuable input provided by several staff members with the Southwest Florida Water Management District, and Dr. Scott Emery of Environmental Health Integrated, Inc., in helping with the final editing of this document.

## TECHNICAL MEMORANDUM

**Date:** January 25, 2006

**To:** Hillsborough County Planning and Growth Management Department

**From:** Staff of the Environmental Protection Commission of Hillsborough County

**Subject:** Developing Scientifically-Based Ecological Buffers to Protect the Watersheds in Hillsborough County, Florida

### Introduction

The Conservation and Aquifer Recharge Element (CARE) Policy 19.1 of the Hillsborough County Comprehensive Plan includes the following language pertaining to the establishment of construction setback distances and buffers for wetlands and water bodies in Hillsborough County:

“The County shall request the Environmental Protection Commission (EPC) to evaluate existing scientific studies regarding construction setback distances and buffers needed to maintain the hydrological and biological integrity of wetlands and water bodies (e.g. SJRWMD Wekiva River study) and shall request EPC to recommend appropriate scientifically defensible setback distances and buffers from wetlands and water bodies. Within one year of such recommendations, the County shall amend its land development regulations to the extent that such setback distances and buffers are determined to be warranted. Until amended per this policy, all current setbacks shall remain in effect.”

On June 24, 2005, the EPC received a request from the Hillsborough County Planning and Growth Management Department (Administrative Referral attached as Appendix A) to perform this evaluation.

The present report provides recommendations developed by EPC staff in response to that request. The report is organized into three sections. The first section describes the setbacks and buffers that are currently implemented within the county. The second summarizes existing scientific studies regarding setbacks and buffers needed to maintain hydrological and biological integrity of wetlands and water bodies. The third section provides recommendations regarding the development of scientifically defensible setback and buffers.

This report outlines the scientific criteria used for establishing protective buffers, including buffers for water quality protection and riparian habitat protection. It is to be emphasized that the buffer widths cited in this report are based on work done by others

outside of Hillsborough County. These scientific methodologies have not yet been verified for use in Hillsborough County's watersheds.

This report is informational. Further discussion among the public, and the County departments with responsibility for land use planning and development review, including the EPC, the Planning and Growth Management Department, and the Planning Commission, will be vital to the success of this process. At this early stage, none of the recommendations in this report are meant to supplant or undermine the policies or procedures currently applied by the County in evaluating water quality and/or riparian buffers for present-day land developments. The EPC evaluated buffer widths are based on general principles of natural resource management and conservation, but would not imply establishing standards for Hillsborough County outside of the delegated authority of the agency or the expertise of the technical staff. In particular, suggested buffer widths related to Wildlife Habitat should be evaluated by appropriate staff within the departments primarily responsible for wildlife management in Hillsborough County.

### **Section 1. Existing Setbacks and Buffers**

Hillsborough County, in Section 4.01.07 of its Land Development Code (LDC), includes the following language pertaining to land alterations and setbacks from environmentally sensitive areas:

**"Sec. 4.01.07. Environmentally Sensitive Areas - Wetlands and Natural Water Bodies"**

#### **A. Activities Prohibited, Allowed**

1. Land alteration activity which destroys, reduces, impairs or otherwise adversely impacts a wetland or natural body of water shall be prohibited unless specifically approved by the EPC, in accordance with EPC Rule Chapter 1-11, or, in the case of seawalls, such other regulatory agencies as are empowered by law to authorize such activities.

2. Land alteration activity which destroys, reduces, impairs or otherwise adversely impacts a wetland within 500 feet of the Hillsborough River, Alafia River, or Little Manatee River shall be prohibited, regardless of any other regulatory agency authorization. The 500 feet shall be measured from the jurisdictional line established by the EPC for wetlands and natural waterbodies.

3. Wetlands and natural water bodies to be protected from development shall be designated Conservation Area or Preservation Area, as appropriate, on all development plans and plats. (See definition of environmentally sensitive areas.)

## B. Setbacks

1. Setbacks shall be required from those Conservation and Preservation Areas listed as wetlands or natural water bodies in the definition of environmentally sensitive areas. Setbacks shall be a minimum of 30 feet for Conservation Areas and a minimum of 50 feet for Preservation Areas. Wider setbacks may be required by the EPC depending on the environmental sensitivity of the area and the intensity of the development proposed adjacent to the area. For example, a wider setback may be required for a large excavation proposed adjacent to a wetland in order to prevent dewatering of the wetland. Narrower setbacks may be allowed to preserve trees within the portion of the parcel to be developed, if specifically approved by the Administrator and the EPC.”

Conservation Areas and Preservation Areas are defined in the Hillsborough County Comprehensive Plan as follows:

- Conservation Areas include the following types of wetlands, natural water bodies, and uplands: freshwater marshes, wet prairies, hardwood swamps, cypress swamps, natural shorelines other than natural beaches and dunes, Class III Waters, and significant wildlife habitat.
- Preservation Areas include the following types of wetlands, natural water bodies and uplands: coastal marshes, mangrove swamps, marine grass beds, natural beaches and dunes, Class I and II Waters, aquatic preserves, essential wildlife habitat, and natural preserves.

## Section 2. Existing Technical Information Regarding Setbacks and Buffers

### 2.1. Types of Ecological Buffers

#### 2.1.1. Buffers for Water Quality Protection

Water quality protection is one important consideration when establishing buffer widths around waterbodies. The general idea is to make sure that a land development is far enough away from a given waterbody so that the development, during construction and over the long term, does not cause adverse water quality impacts.

In its Model Ordinance Issue Paper entitled *Vegetative Buffer Zones*, the Surface Water Improvement and Management (SWIM) section of the Southwest Florida Water Management District reported that “establishing ecological setbacks, or buffers for water quality protection, is related to the ability of the buffer to abate destructive water velocities, and the quantities of pollutants carried by surface runoff from uplands that may have a negative impact on downstream water quality, flora and fauna (Southwest Florida Water Management District, 1991).” In essence, this means that inadequate setback distances between a land development and a wetland, especially if the topography is relatively steeply sloped toward the wetland, can result in excessive

sediment accumulation in the wetland. It follows that excessive sediment accumulation can be detrimental to water quality, particularly when the sediments are transporting a pollutant load to a receiving water body.

Also with respect to sedimentation and water quality protection, the United States Environmental Protection Agency (EPA) reports that "sediment decreases water quality for fish and other stream animals and plants. Even if the water appears clear, some sediment remains. Oxygen-depleting substances and excess nutrients can be harmful to aquatic life and plants, sometimes causing algal blooms or fish kills. Pathogens and metals can also be harmful to aquatic life and human health, causing health problems and sometimes death." (<http://epa.gov/owow/nps/wetmeasures/> U.S. EPA, 2005).

In terms of buffer widths for water quality protection, the Center for Watershed Protection (CWP) reported that "buffers can provide effective pollutant removal for development located within 150 feet of the buffer boundary, when designed properly." From a national perspective, based on a national survey of 36 local buffer programs, the CWP reported that buffers ranged from 20 to 200 feet in width on each side of the stream, with a median buffer width of 100 feet. The CWP also reported that, in general, a minimum base width of at least 100 feet is recommended to provide adequate stream protection (Schueler, T.R., and Holland, H.K. (editors), 2002). This would tend to support a minimum buffer width of 100 feet.

The University of Florida Center for Wetlands, in its Wekiva River Basin buffer study completed for the St. Johns River Water Management District, stated that "a buffer zone for maintenance of water quality is related to filtering capacity and roughness of natural undisturbed vegetation to minimize inputs of sediments and destructive velocity of water." "The potential for erosion and subsequent sedimentation is a function of erodibility of soil and slope (University of Florida, 1987)." This reference clearly promotes water quality-related buffers as a means for protecting water bodies from excessive sedimentation, and associated water quality degradation.

Lowrance, et.al (1997), in their work in the Chesapeake Bay region, reported on the significance of properly designed buffer systems on water quality, and specifically, on controlling nitrate in shallow ground water systems flowing into streams (Lowrance and Altier, et. al. 1997). This underscores the important role that buffers also have in protecting ground water quality, which because of the hydrologic connection between ground water and surface water that is common throughout Florida can likewise protect surface water quality.

From the technical references cited above, and as a general theme from other supporting references cited in the area of using buffers for water quality protection, EPC staff believes that the benefits of using buffers for water quality protection have been well documented. Properly established buffers can reduce the pollutant loads from land development, and preserve water quality in waterbodies that could potentially receive runoff from development.

Establishing adequate buffer widths between land development projects and wetlands, for water quality protection purposes, should be an important consideration in the Hillsborough County land development review process.

### **2.1.2. Buffers for Water Quantity Protection**

Water quantity protection, in terms of setting buffers for water bodies, pertains most closely to ensuring that land developments in a watershed are constructed so as not to reduce the ground water flow (i.e. baseflow) contribution to a waterbody.

In Florida, river systems, lakes, and wetlands typically rely on some quantity of ground water flow to sustain healthy ecosystems within them. Ground water flow is especially critical to these ecosystems during Florida's annual climactic dry season, usually a period lasting from November through the end of June. Over that period of time, ground water baseflow can be a significant source of water for the health and well being of wetland systems, as well as rivers and lakes.

The Southwest Florida Water Management District noted that "lowering of water tables to accommodate development is probably the single most important factor affecting adjacent wetlands, and that a properly sized buffer will go a long way toward minimizing such impacts (1991)." This underscores the link between setting water quantity-based buffers for developments, and maintaining adequate ground water flows to wetlands in the watersheds where these developments are taking place.

The University of Florida Center for Wetlands (1987) reported that "lowering of water tables to accommodate construction-related activities and as a permanent consequence of development can reduce ground water elevations and intercept ground water flows to adjacent wetlands." EPC staff views this as an acknowledgement by the scientific community that ground water flow has an important role in wetland hydrology, including its role to supply baseflow to rivers, lakes, and wetlands during Florida's annual dry season. A riverine wetland system might be partly sustained by a ground water flow system extending hundreds of feet up slope from the stream or river that it fringes. Land development, particularly if it has a high proportion of impervious surface, can reduce recharge to the ground water flow system and possibly to the detriment of the riverine wetland system, and to the river itself. It could not be ascertained whether the existing development setbacks being enforced by the County (30 feet for a Conservation Area and 50 feet for a Preservation Area) had taken this important water quantity protection issue into consideration.

Another example of water quantity protection is in cases where development is taking place in a "springshed," or ground water basin that supplies water to a naturally flowing spring. Without proper buffers and other environmental considerations in place, land development in a springshed could reduce the flow of ground water to the spring, and to the stream or river that receives water from the spring. Development near isolated lakes might also require a water quantity buffer because lakes in Florida often receive water from small ground water basins surrounding the lake.

Establishing adequate buffers between land developments and wetlands, for water quantity protection, should be an important aspect of the County's land development review process.

### **2.1.3. Buffers for Riparian Habitat Protection**

Another factor that will have influence on the width of an ecological buffer is the need to sustain wildlife and healthy plant communities adjacent to a waterbody. In this case of flowing water bodies, such as rivers and streams, this has become commonly known as establishing a wildlife and habitat corridor.

The Wekiva River Basin buffer study (1987) proposes a scientifically-based methodology for calculating the width for a habitat protection buffer, and as a general observation, it is dependent of the particular type of plant or wildlife species that is being targeted for protection.

The methodology for setting a habitat protection buffer involves surveying the plants and wildlife living near a given water body, and then evaluating their individual buffer requirements. Buffer requirements for individual species are taken from available scientific literature, and the buffer width is established to protect the most sensitive of the species identified.

Establishing an adequate buffer for habitat protection should also be an important part of the County's land development review process.

### **2.1.4. Buffers for Lakes**

Lakes are valuable ecological water resources in Hillsborough County. Throughout the County there are cases where lakes have experienced water quality degradation, and/or lowered water levels, primarily because of human activities. Water quality degradation is most commonly connected to a lake receiving polluted runoff from stormwater. Lowered water levels in lakes, on a regional scale, have been attributed to historically high rates of ground water pumping, particularly in the Northwest part of the county.

The Hillsborough County City-County Planning Commission (Planning Commission), in its report entitled *Hillsborough County Lakes - Analysis of Local Planning and Regulation*, presents sound reasoning and documents scientifically-based literature for establishing ecological buffers, particularly for lakes (Hillsborough County City-County Planning Commission, 2001). EPC staff concurs with the need to set scientifically defensible buffers for lakes, and it was noted that the three key buffer parameters (water quality protection, water quantity protection, and habitat protection) would apply when establishing a lake buffer. A publication cited in the Planning Commission report (Bernthal, T.W., and Barrett, J.R., 1997) states that "the determination of an appropriate buffer width is somewhat problematic and subject to site specific conditions." It was further cited that "such an approach is impractical in the context of planning and zoning, which must be done comprehensively on a broad scale (1997)." Bernthal and Barrett

(1997) also state that "the most scientifically justifiable approach in determining the appropriate buffer for a certain level of protection around a given water body would be to send out a team of biologists to mark out the buffer in the field."

EPC staff can appreciate that setting buffer widths on a site specific basis may not be practical for broad-based planning. However, we believe that if taken in the narrower context of permitting under the LDC and Chapter 1-11, Rules of the EPC, setting a buffer in the field, on a project specific basis, is worthy of further consideration. In practice, a project-specific buffer width would be set in the field by the developer. Review and verification of the buffer would then be carried out as part of the County's normal land development review process. From the standpoint of acquiring the most scientific data on buffers for lake protection, EPC staff concurs that using a field team to collect data project specifically would be the preferred approach.

The 2001 Planning Commission report also includes some significant discussion on other buffer programs around the United States, citing examples of buffers applied to protect water bodies in the states of Virginia, Maryland, and Washington. Based on these examples, it appears that a minimum buffer width of 50 feet has gained some support in the Chesapeake Bay area, and the Pacific Northwest. To further support 50 feet as a minimum buffer width needed to provide some level of protection for a water body, in a report prepared for the Wisconsin Department of Natural Resources, Bernthal and Barrett (1997) stated that "based on the literature a 50-foot absolute minimum setback would be justifiable." EPC staff feels that these references form a valid basis for a recommendation that over the short term, Hillsborough County consider increasing the buffer width for a Conservation Area from 30 feet to a minimum of 50 feet.

For water quality protection, and primarily in parts of the County that are not supplied with municipal water and sewer services, septic tanks can potentially be a significant threat to water quality in a lake. The Pinelands Commission in south-central New Jersey has established a buffer of 300 feet between development and wetlands, mostly to allow for the dilution of septic tank leachate in groundwater (New Jersey Pinelands Commission, 2005). With ground water also being important to the ecology of lakes throughout Florida, it follows that a similar buffer for septic tanks is worth considering in the County. The actual buffer width for a septic system from a lake in the County could be based on an estimate of travel time, using a contaminant transport model for example, for septic tank leachate in ground water for a given lake basin. Predominant soil types may also be a factor in determining the appropriate buffer for a septic system.

As a general observation, based on our experience in working with lakes that have been impacted by wellfield pumping, EPC staff believes that protecting water quantity in a lake is likely to be more of a function of maintaining ground water levels in the lake basin (in the case of isolated lakes), or in the case of flow through lakes, maintaining adequate flows in the creek system feeding the lakes.

To establish an ecological buffer for a lake, the scientific methodologies developed by the Southwest Florida Water Management District for setting Minimum Flows and Levels on lakes could offer a reasonable starting point. These have been promulgated in Chapter



40D-8, F.A.C., under the rules of the Southwest Florida Water Management District. As with the other types of buffers described above, appropriate ecological buffers for lakes are best determined on a lake-by-lake basis using site specific data and information.

## **2.2. Ecological Buffers Established and Proposed in Other Areas**

### **2.2.1. West-Central Florida**

#### **2.2.1.1 Manatee County**

- Under its Land Development Code (LDC), Manatee County generally requires a wetland buffer of at least 50 feet from the most landward extent of a jurisdictional wetland contiguous with certain sensitive water bodies such as the Terra Ceia Aquatic Preserve, the Sarasota Bay Outstanding Florida Water, or the Little Manatee River Outstanding Florida Water.
- A wetland buffer of at least 30 feet is observed for lands developments adjacent to other water bodies in Manatee County. The Manatee County LDC includes an administrative procedure where senior staff may recommend increased buffer widths adjacent to Outstanding Florida Waters, riverine systems, or larger isolated wetlands, for a variety of reasons including enhancing watershed protection.
- Also under its LDC, Manatee County establishes what are termed "Watershed Protection Overlay Districts" for the Braden River and Manatee River watersheds. These rivers are used for potable water supply. The Overlay Districts provide added levels of protection, special setback distances for septic tank systems, for example, within those watersheds. Areas where the average depth to the water table is less than 3 feet in September are also given added protections from septic systems.

#### **2.2.1.2. Hernando County**

- Under its Riverine Protection Ordinance, Hernando County affirms that uplands that fringe wetlands play a vital role in buffering the potentially degrading impacts of development.
- Among other provisions, the Ordinance establishes that a buffer width of 75 feet shall be added to the upland side of a wetland delineation.
- The Ordinance cites the "Wekiva River Basin Study," and makes reference to using the methodologies from the Study, if applicable, to establishing buffer zones in Hernando County.

### 2.2.1.3. SWFWMD

The Southwest Florida Water Management District (SWFWMD), in its *Environmental Resource Permitting Information Manual, Part B: Basis of Review for 40-D Rules* (SWFWMD, 2002) includes the following language pertaining to buffer widths.

- “Secondary impacts to habitat functions of wetlands associated with adjacent upland activities will not be considered adverse if buffers, with a minimum width of 15 feet and an average width of 25 feet are provided abutting those wetlands that will remain under the permitted design, unless additional measures are needed for protection of wetlands used by listed species for nesting, denning, or critically important feeding habitat.”
- “For projects located wholly or partially within 100 feet of an Outstanding Florida Water (OFW), or within 100 feet of any wetland abutting an OFW. Applicants must provide reasonable assurance that the proposed construction or alteration of a system will not cause sedimentation in the OFW or adjacent wetlands and that filtration of all runoff will occur prior to discharge into the OFW or adjacent wetlands. Reasonable assurance is presumed if in addition to implementation of the requirements in section 2.8.2, any one or more of the following measures are implemented:
  - a. Maintenance of a vegetative buffer, consisting of an area of undisturbed vegetation that is a minimum of 100 feet in width, landward of the OFW or adjacent wetlands. During construction or alteration of the system, all runoff, including turbid discharges from dewatering activities, must be allowed to sheet flow across the buffer area. Concentrated or channelized runoff from upstream areas must be dispersed before flowing across the vegetative buffer. Construction activities of limited scope that are necessary for the placement of outfall structures may occur within the buffer area.
  - b. The installation or construction of the structures described below at all outfalls to the OFW or adjacent wetlands must be completed prior to beginning any construction or alteration of the remainder of the system. These structures must be operated and maintained throughout construction or alteration of the permanent system. Although these structures may be located within the 100 foot buffer described in subparagraph (a) above, a buffer area of undisturbed vegetation that is a minimum of 25 feet in width must be maintained between the OFW or adjacent wetlands and any structure.”

Through the Surface Water Improvement and Management (SWIM) program Model Ordinance project (SWFWMD, 1991), SWFWMD put forth the following recommendations with respect to suggested buffer widths.

- For maintenance of water quality in "municipal conditions", a minimum buffer width of 15 to 20 meters (49 to 66 feet) for low (0 to 3%) land slope conditions, with buffers as high as 80 meters (263 feet) for higher land slopes in the 60% range.
- For water quantity maintenance, a buffer width that ranged from 30 feet to 550 feet was recommended. The actual buffer within that range would depend on site specific hydrologic conditions.
- For water quality maintenance, buffer widths ranging from 75 feet to perhaps as wide as 450 feet, depending on site specific measurements of particle size for sediments that could be carried to a water body through runoff. Average conditions in East-Central Florida were taken to generally represent conditions within the SWFWMD.
- For protection of wildlife habitat, buffer widths ranging from 322 feet to 732 feet, depending on the type of water body being targeted for protection, and the predominant types of indicator species that utilize the water body for sustenance. Lower buffer widths may be possible for water bodies of lesser quality. Site specific evaluation would be necessary to set an appropriate buffer width for wildlife habitat protection.

## 2.2.2. Other Regions of Florida

### 2.2.2.1. Wekiva River

The Center for Wetlands (1987) suggests buffer widths for the Wekiva River basin as follows:

- For water quality maintenance, depending on site specific land slope and soil erodibility, a buffer width in the range of 49 to 316 feet was calculated using a formula derived in the report.
- For water quantity maintenance, under certain assumptions for an acceptable water table drawdown at the edge of a wetland, a buffer width ranging from 19 to 280 feet was calculated using a formula derived in the report.
- For maintaining habitat suitability, depending on site specific habitat factors in the Wekiva River Basin, a minimum width of 536 feet of suitable habitat from the landward edge of the forest along both sides of the river is suggested.

#### 2.2.2.2. Orange County, Florida

In its Wekiva River Protection Ordinance, and under the Wekiva River Protection Act approved by the Florida Legislature as Chapter 369, part III of the Florida Statutes, Orange County incorporated the following buffer zone language into the Ordinance.

- "A buffer zone is hereby established 550 feet from the landward limit of waters of the state (F.A.C. 17-4.022) or edge of the Wekiva River, or from the landward edge of the wetlands associated with the Wekiva River."
- "In no case shall development activities be permitted closer than 550 feet from the river's edge except for created forested or herbaceous wetlands, and passive recreation when it is clearly demonstrated by the applicant that the areas shall not adversely affect aquatic and wetland-dependent wildlife, water quality, ground water table or surface water levels."

#### 2.2.2.3 St. Johns River Water Management District

Under Chapter 40C-41, Florida Administrative Code, *Environmental Resource Permits: Surface Water Management Basin Criteria*, the St. Johns River Water Management District establishes specific rule language for surface water management in the Upper St. Johns River Hydrologic Basin, the Oklawaha River Hydrologic Basin, the Wekiva River Hydrologic Basin, the Econlockhatchee River Hydrologic Basin, the Tomoka River Hydrologic Basin, the Spruce Creek Hydrologic Basin, the Sensitive Karst Areas Basin, and the Lake Apopka Hydrologic Basin. The standards are intended to incorporate the appropriate water quantity and water quality control and other environmental measures to, among other things, minimize adverse impacts to the water resources of the District. In the Wekiva River Basin, for example, the Code incorporates buffer widths and protection zones that are summarized as follows:

- A minimum 100 foot width of undisturbed vegetation must be retained landward of the Outstanding Florida Water Body or the abutting wetland, whichever is more landward.
- A Water Quality Protection Zone of ½ mile from the Wekiva River, and ¼ mile from a wetland abutting an Outstanding Florida Waterbody.
- A Water Quantity Protection Zone shall extend 300 feet landward of the landward extent of the Wekiva River, and several other water bodies within the Wekiva River Hydrologic Basin.
- A riparian wildlife habitat protection zone that includes the wetlands abutting the Wekiva River and several other water bodies in the basin, and the uplands within 50 feet of the landward extent of those wetlands.

- Uplands that are within 550 feet landward of the stream's edge in the Wekiva River Basin, and as further defined in the Code.

With respect to a Water Quality Protection Zone, the St. Johns River Water Management District, under chapter 40C-41, F.A.C., and the "Applicant's Handbook: Management and Storage of Surface Waters" ([www.sjrwmd.com/programs/regulation/handbooks/pdfs/msswhdbk.pdf](http://www.sjrwmd.com/programs/regulation/handbooks/pdfs/msswhdbk.pdf)) (St. Johns River Water Management District, 2005), includes the following language (please note: the Handbook applies to Environmental Resource Permitting as administered by the St. Johns River Water Management District). The Applicant's Handbook is available to the development community when applying for Environmental Resource Permits within the St. Johns River Water Management District.

"Construction and alteration of systems can result in erosion and downstream turbidity and sedimentation of waters. Erosion is the process by which the land surface is worn away by action of wind, water, and gravity. During construction and alteration, the potential for erosion increases dramatically. The result of erosion is discharges of turbid water and subsequent sedimentation (settling out) of soil particles in downstream receiving waters. Turbidity, suspended solids, and sedimentation result in adverse biological effects in aquatic and wetland environments, water quality degradation, and loss of flood storage and conveyance. The potential for erosion can be severe in the Wekiva Basin as a result of steep slopes and erosive soils."

"Although erosion and sediment control measures are required throughout the St. Johns River Water Management District, the District has determined that the problems associated with erosion in the Wekiva Basin are sufficiently serious to warrant requiring those applicants proposing certain systems to provide detailed plans when permit applications are submitted."

"A Water Quality Protection Zone shall extend one half mile from the Wekiva River, Little Wekiva River north of State Road 436, Black Water Creek, Rock Springs Run, Seminole Creek, and Sulphur Run, and shall also extend one quarter mile from any wetland abutting an Outstanding Florida Water."

"For a project which will be located wholly or partially within 100 feet of an Outstanding Florida Water or within 100 feet of any wetland abutting such a water, an applicant must provide reasonable assurance that the construction or alteration of the system will not cause sedimentation within these wetlands or waters and that filtration of runoff will occur prior to discharge."

"A minimum 100 foot width of undisturbed vegetation must be retained landward of the Outstanding Florida Water or the abutting wetland, whichever is more landward. During construction or alteration, runoff (including turbid discharges from dewatering activities) must be allowed to sheet flow across

this undisturbed vegetation as the natural topography allows. Concentrated or channelized runoff from construction or alteration areas must be dispersed before flowing across this undisturbed vegetation. Construction or alteration of limited scope necessary for outfall structures may occur within this area of undisturbed vegetation."

The SJRWMD Handbook separates water quality issues into short term and long term considerations. Some of the short term water quality considerations are summarized as follows:

- Providing turbidity barriers for land development activities that are near wetlands.
- Stabilizing slopes adjacent to wetlands and other surface waters to prevent erosion and turbidity.
- Maintaining construction equipment to ensure that pollutants are not released into wetlands or other surface water bodies.
- Preventing any other release of pollutants that would cause a violation of water quality standards.

Some of long term water quality considerations that must be addressed, per the SJRWMD Handbook, are summarized as follows:

- The potential of a constructed or altered water body to violate water quality standards due to its depth of configuration.
- Long term siltation, erosion, or dredging that will cause turbidity violations.
- Prevention of any release of pollutants that will cause water quality standards to be violated.

The SJRWMD Handbook includes specific language to protect water quality specifically at docking facilities. The language deals with new dock construction, and also with the expansion or alteration of existing docks, where there is the potential to adversely affect water quality. As examples of methods to protect water quality at docking facilities, per the Handbook, the following requirements must be satisfied:

- A hydrographic study must be conducted to document the flushing time for water at the docking facility.
- The disposal of waste material from boats must be addressed to prevent disposal into wetlands or other surface waters.

- Pollutant leaching characteristics for materials such as pilings and paints used on boat hulls must be addressed. This is to insure that pollutants will not leach and cause water quality standards to be violated.

The above mentioned water quality protection strategies, as derived from the SJRWMD Handbook, do not represent all of what has been written into the Handbook. The Handbook is more exhaustive. The intent here is to provide some examples of the water quality protection strategies that are currently in place for land developments taking place within the SJRWMD's jurisdiction. EPC staff believes these can form the basis for similar water quality protection strategies in Hillsborough County.

For a Water Quantity Protection Zone, site specific evaluations are undertaken for land developments located within this zone. With respect to the ecological significance of a Water Quantity Protection Zone, the following language is excerpted from the "*Applicant's Handbook: Management and Storage of Surface Waters* (St. Johns River Water Management District 2005)."

"Lowering the ground water table adjacent to wetlands can change the wetland hydroperiod such that the functions provided by the wetland are adversely affected."

"As part of providing reasonable assurance that the standard set forth in paragraph 40C- 4.301(1) (d) is met, where any part of a system located within this (Water Quantity Protection) zone will cause a drawdown, the applicant must provide reasonable assurance that construction, alteration, operation, or maintenance of the system will not cause ground water table drawdowns which would adversely affect the functions provided by the referenced wetlands. The applicant shall provide an analysis which includes a determination of the magnitude and areal extent of any drawdowns, based on site specific hydrogeologic data collected by the applicant, as well as a description of the referenced wetlands, the functions provided by these wetlands, and the predicted impacts to these functions. It is presumed that the part of this standard regarding drawdown effects will be met if the following criteria are met: A ground water table drawdown must not occur within the Water Quantity Protection Zone."

For water quantity protection, EPC staff would support Hillsborough County considering the SJRWMD's approach. This essentially calls for site specific hydrogeologic data by the applicant to determine the appropriate water quantity-based buffer for a given land development. This would include an evaluation of wetland functions, and any predicted impacts to these functions (St. Johns River Water Management District, 2005).

### 2.2.3. Eastern U.S.

#### 2.2.3.1. Georgia

The University of Georgia Institute of Ecology, through its Office of Public Service & Outreach, has published "A Review of the Scientific Literature on Riparian Buffer Width, Extent, and Vegetation" ([http://outreach.ecology.uga.edu/tools/buffers/lit\\_review.pdf](http://outreach.ecology.uga.edu/tools/buffers/lit_review.pdf)) (University of Georgia, 1999). The stated purpose of the publication was to provide a scientific basis for riparian buffer ordinances established by local governments in Georgia (University of Georgia, 1999). Among other recommendations, the publication offers three options for buffer width guidelines as follow:

##### Option 1:

- Establish a base (buffer) width of 100 feet plus 2 feet per 1% of slope.
- Extend the buffer to the edge of the floodplain; include adjacent wetlands (the buffer width is extended by the width of the wetlands, which guarantees that the entire wetland and an additional buffer are protected).
- Existing impervious surfaces in the riparian zone do not count toward the buffer width (i.e., the width is extended by the width of the impervious surface, just as for wetland).
- Slopes over 25% do not count toward the width; and the buffer applies to all perennial and intermittent streams.

##### Option 2:

- The same as Option 1, except: base (buffer) width is 50 feet plus 2 feet per 1% of slope.
- Entire floodplain is not necessarily included in buffer, although potential sources of severe contamination should be excluded from the floodplain.
- Ephemeral streams are not included; affected streams are those that appear on US Geological Survey 1:24,000 topographic quadrangles.
- Alternatively, buffer can be applied to all perennial streams plus all intermittent streams of second order or larger

##### Option 3:

- Fixed buffer width of 100 feet. The buffer applies to all streams that appear on US Geological Survey 1:24,000 topographic quadrangles or,



alternatively, all perennial streams plus all intermittent streams of second order or larger (as for Option Two).

#### All Options:

- Buffer vegetation should consist of native forest. Restoration should be conducted when necessary and possible.
- All major sources of contamination should be excluded from the buffer. These include construction resulting in major land disturbance, impervious surfaces, logging roads, mining activities, septic tank drain fields, agricultural fields, waste disposal sites, livestock, and clear cutting of forests.
- Application of pesticides and fertilizer should also be prohibited, except as may be needed for buffer restoration.

All of the buffer options described above will provide some habitat for many terrestrial wildlife species. To provide habitat for forest interior species, at least some riparian tracts of at least 300 ft width should also be preserved. Identification of these areas should be part of an overall, county-wide wildlife protection plan. For riparian buffers to be most effective, some related issues must also be addressed. These include reducing impervious surfaces, managing pollutants on-site, and minimizing buffer gaps.

#### 2.2.3.2. Chesapeake Bay

The Chesapeake Bay Program, in its publication entitled *Chesapeake Bay Riparian Handbook: A Guide for Establishing and Maintaining Riparian Forest Buffers*, ([www.chesapeakebay.net/pubs/subcommittee/nsc/forest/handbook.htm](http://www.chesapeakebay.net/pubs/subcommittee/nsc/forest/handbook.htm)) (United States Department of Agriculture, 1998) offers a range of minimum buffer widths for several different buffer objectives. The publication states that "there is substantial agreement in the scientific community about the value of using vegetation to buffer valuable aquatic resources from the potential impacts of adjacent human use of the land."

The approximate ranges cited for buffer widths, per objective, are as follows:

- Wildlife Habitat: from 50 to 275 feet
- Flood Mitigation: from 50 to 225 feet
- Sediment Removal: from 50 to 175 feet
- Nitrogen Removal: from 25 to 125 feet

- Water Temperature Moderation: from 25 to 50 feet
- Bank Stabilization and Aquatic Food Web: from 15 to 40 feet

#### **2.2.4. National Overview**

The Center for Watershed Protection (2002) provided the following summary:

- According to a national survey of 36 local buffer programs, urban stream buffers range from 20 to 200 feet in width on each side of the stream, with a median width of 100 feet.
- An average buffer width of 100 feet protects up to 5% of watershed area from future development.
- Buffers can provide effective pollutant removal for development located within 150 feet of the buffer boundary, if designed properly.
- One mile of stream buffer can provide 25 to 40 acres of habitat area.
- Other, expensive flood controls are not necessary if the buffer includes the 100-year floodplain.

### **Section 3. Recommendations**

#### **3.1. Background Discussion and Summary of Findings**

##### **3.1.1. Outstanding Florida Waters (OFW)**

For consistency with the Wekiva River protections (St. Johns River Water Management District, 2005), which appear to be among the most scientifically defensible buffers for Outstanding Florida Waters (OFWs) that are currently being implemented in Florida, EPC staff recommends the following buffers for OFWs be evaluated for potential adoption in Hillsborough County.

- Establish a minimum 100 foot width of undisturbed vegetation landward of an Outstanding Florida Water Body or the abutting wetland, whichever is more landward.
- Establish a water quality protection zone of ½ mile from an Outstanding Florida Waterbody, and ¼ mile from a wetland abutting an Outstanding Florida Waterbody. Work to adopt specific land development criteria, for inclusion in the Comprehensive Plan and the Land Development Code, to identify development restrictions within these zones.

- Establish a water quantity protection zone that shall extend 300 feet landward of the landward extent of an Outstanding Florida Water Body. Work to adopt specific land development criteria, for inclusion in the Comprehensive Plan and the Land Development Code, to identify development restrictions within these zones.
- Establish a riparian wildlife habitat protection zone that includes the wetlands abutting an Outstanding Florida Waterbody, and the uplands within 50 feet of the landward extent of those wetlands. Work to adopt specific land development criteria, for inclusion in the Comprehensive Plan and the Land Development Code, for development restrictions within this zone.

### **3.1.2. Non-OFW Sites**

For non-OFW waters, the following buffers have received extensive technical review and are currently being recommended by several states and local governments within the Chesapeake Bay watershed:

- Wildlife Habitat: from 50 to 275 feet
- Flood Mitigation: from 50 to 225 feet
- Sediment Removal: from 50 to 175 feet
- Nitrogen Removal: from 25 to 125 feet
- Water Temperature Moderation: from 25 to 50 feet
- Bank Stabilization and Aquatic Food Web: from 15 to 40 feet

### **3.2. Recommendations for Immediate Implementation in Hillsborough County**

- Consider expanding the existing setback of 30 feet for a Conservation Area to a minimum of 50 feet.
- Consider adopting a minimum buffer width of 50 feet in the Hillsborough County Land Development Code.

### **3.3. Recommendations for Long-Term Implementation Hillsborough County**

- Develop a Technical Guidance Manual for setting buffers, on a project specific basis, for waterbodies in Hillsborough County. Use a minimum buffer width of 50 feet as a starting point for the project specific evaluation. The Manual would provide technical direction on the collection of site-specific data for setting scientifically defensible buffers throughout the County.
- Develop a process for integrating buffers for land development with TMDLs water quality requirements throughout the County.
- Develop and adopt watershed protection ordinances for priority watersheds for incorporation into the Land Development Code.

## References Cited

- Bernthal, T.W., and Barrett, J.R. 1997. Effectiveness of shoreline zoning standards to meet statutory objectives: a literature review with policy implications. Wisconsin Department of Natural Resources.
- Hillsborough County City-County Planning Commission. 2001. Hillsborough County lakes, analysis of local planning and regulation
- Hillsborough County, Florida. 2005. Hillsborough County comprehensive plan. Conservation and aquifer recharge element.
- Hillsborough County, Florida. 2005. Hillsborough County land development code.
- Lowrance, R., Altier, L.S., Newbold, J.D., Schnabel, R.R., Groffman, P.M., Denver, J.M., Carrell, D.Z., Gilliam, J.W., Robinson, J.L., Brinsfield, R.B., Staver, K.W., Lucas, W., and Todd, A.H., 1997. Water quality functions of riparian forest buffers in Chesapeake Bay watersheds, *Environmental Management* Vol. 21, No. 5, pp. 687-712.
- New Jersey Pinelands Commission. 2005. Comprehensive Management Plan
- Orange County, Florida. 1991. Wekiva river protection ordinance: Article XIII of the Orange County, Florida land development code
- Palone, R.S., and Todd, A.H. (editors). 1998. Chesapeake Bay riparian handbook: a guide for establishing and maintaining riparian forest buffers. USDA Forest Service, Radnor, PA.
- Schueler, T.R., and Holland, H.K. (editors). 2002. The Practice of watershed protection. Article 39 - The Architecture of urban stream buffers. Center for Watershed Protection, Ellicott, MD
- Southwest Florida Water Management District. 1991. Surface Water Improvement and Management (SWIM) Department ordinance model project. Issue III: Vegetative buffer zones. Contract to Henigar & Ray Engineering Assoc., Inc.: 59 pp.
- Southwest Florida Water Management District. 2002. Environmental resource permitting manual - part b - basis of review for 40D rules. 162 pp.
- Southwest Florida Water Management District. 2005 Chapter 40D-8, Florida Administrative Code, water levels and rates of flow. 63 pp.
- St. Johns River Water Management District. 2005. Chapter 40C-41, Florida Administrative Code: environmental resource permits: surface water management basin criteria.

St. Johns River Water Management District. 2005. Applicant's handbook: management and storage of surface waters.

United States Environmental Protection Agency. 2005. Polluted runoff (non point source pollution): National management measures to protect and restore wetlands and riparian areas for the abatement of non point source pollution: EPA 841-B-05-003.

University of Florida Center for Wetlands. 1987. Buffer zones for water, wetlands, and wildlife, a final report on the evaluation of the applicability of upland buffers for the wetlands of the wekiva basin. Prepared for the St. Johns River Water Management District.

University of Georgia, Office of Public Service & Outreach: Institute of Ecology. 1999 (revised). A review of the scientific literature on riparian buffer width, extent, and vegetation.

**Appendix A - Letter to EPC from Planning and Growth Management Department**

June 24, 2005

Richard D. Garrity, Ph.D., Executive Director  
Hillsborough County Environmental Protection Commission  
Roger P. Stewart Center  
3629 Queen Palm Drive  
Tampa, Florida 33619

Dear Dr. Garrity,

**SUBJECT: IMPLEMENTATION OF COMPREHENSIVE PLAN POLICY 19.1 IN THE  
CONSERVATION AND AQUIFER RECHARGE ELEMENT**

The Planning and Growth Management Department is in the process of reviewing the implementation of Comprehensive Plan policies dealing with river protection. We are asking for help and input from the Environmental Protection Commission (EPC) staff in this process.

Policy 19.1 of the Conservation and Aquifer Recharge Element states: "The county shall request the Environmental Protection Commission (EPC) to evaluate existing scientific studies regarding construction setback distances and buffers needed to maintain the hydrological and biological integrity of wetlands and water bodies (eg. SJRWMD Wekiva River study) and shall request EPC to recommend appropriate scientifically defensible setback distances and buffers from wetlands and water bodies. Within one year of such recommendations, the County shall amend its land development regulations to the extent that such setback distances and buffers are determined to be warranted. Until amended per this policy, all current setbacks shall remain in effect."

We are writing to officially request the Environmental Protection Commission, in conjunction with County staff, make recommendations concerning scientifically defensible setback distances and buffers from wetlands and water bodies to the Planning Commission and the Board of County Commissioners. We would expect that this study and its recommendations to be available for use in the upcoming round of plan amendments in early 2006 as a part of the Comprehensive Plan update. The PGM staff contact for this work is Daniel Blood, who can be reached at 276-8465. Please call me if I can be of further help in facilitating this process.

Sincerely,

Bruce McClendon, Director  
Planning and Growth Management Department  
Hillsborough County

CC: Robert Hunter, Executive Director, The Planning Commission





## EPC Agenda Item Cover Sheet

**Date of EPC Meeting:** April 20, 2006

**Subject:** Curiosity Creek Watershed and Blue Sink Complex Remediation/Restoration (Continuation from March 16, 2006 EPC Board Meeting)

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

**Division:** Environmental Resource Management Division

**Recommendation:** 1. Direct EPC staff to explore and develop potential partnership agreements to seek co-funding of projects to remediate, restore, and preserve the Curiosity Creek-Sulphur Springs Sinks system.  
2. Encourage the Blue Sink Coalition to develop a localized habitat restoration and water quality improvement project of the Ewanowski Spring-Blue Sink area, and submit for evaluation as a potential Pollution Recovery Fund (PRF) project.

**Brief Summary:** This is a continuation of an item placed on the Agenda of the March EPC meeting at the request of Commissioner Castor. Staff presentation will address the four issues raised by the Board at the March meeting. Staff finds that while reconnecting the Blue Sink/Curiosity Creek system to Sulphur Springs and the Hillsborough River has the potential to benefit the environment, it is unlikely to represent a significant source of water supply. The staff recommendation represents two actions, the first supports an integrated watershed management-based approach, focused on basin management action plans and achieving compliance with TMDL requirements. The second supports a smaller scale project to remediate the long-standing water quality and localized flooding problems in the immediate area of Ewanowski Spring and Blue Sink.

**Background:** Staff provided an information brief to the Board in March, after discussion, the item was continued to April, the Board directed staff address four issues at that meeting:

1. Does the original proposal offer a feasible alternative to Downstream Augmentation?
2. Does the original proposal risk an increase of withdrawals from the Hillsborough River?
3. Did clogging of sinks in the Curiosity Creek watershed exacerbate conditions for flooding?
4. Would pumping of Blue Sink impact neighboring lakes water levels?

Additionally, staff coordinated with the City of Tampa and Tampa Bay Water, and will summarize the positions of those two organizations on this topic.

The staff conclusions are that while there are immediate and important environmental benefits to be gained from remediation and restoration of the sinks system, the proposed project itself is unlikely to represent a significant source of water supply. The staff recommendation suggests a two-tiered approach, one to offer a potential solution for the immediate water quality and flooding concerns at Blue Sink, and the other to offer a potential long term plan for the remediation and restoration of the larger sinks system overall.

**List of Attachments:** None (Staff Report will be provided on April 20)



## EPC Agenda Item Cover Sheet

**Date of EPC Meeting:** April 20, 2006

**Subject:** Channel District Development Update

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

**Division:** Air Management

**Recommendation:** Ensure compliance with existing rules by working with the St. Pete Times Forum, Port Authority, developers and Channelside entertainment area businesses.

**Brief Summary:** The Air Management Division is working with Downtown and Channel District concerned parties to ensure compliance with our rules and protect existing and future residents from noise impacts associated with mixed-use land development.

**Background:** EPC staff was given a directive to address future environmental concerns resulting from Channel District development. EPC staff met with the City of Tampa's Director of Urban Planning, and the Planning Commission. Meeting findings: Channel District is not intended to be another Ybor entertainment district; causing a noise nuisance is not in the best interest of the developers; and land costs will deter bar ownership because of low profitability. EPC staff will continue to coordinate with concerned parties and work with the St. Pete Times Forum, Port Authority, developers and Channelside entertainment area businesses to ensure compliance with our rules.



## EPC Agenda Item Cover Sheet

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

**Subject:** Report – Impact of Elected Mayor on EPC (Comm. Storms)

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

**Division:** Legal Department

**Recommendation:** Information Only

**Brief Summary:** At the March EPC meeting, Commissioner Storms asked that EPC staff to work with the County Attorney's Office and review the proposed County Charter amendment regarding the County Mayor sue to determine its effect upon the EPC. Staff will present its analysis for the Commission's consideration.

**Background:** In conjunction with the County Attorney's Office, EPC staff has reviewed the most current draft of the proposed County Charter Amendment Petition regarding the County Mayor issue. Staff will present its analysis of the effect of the amendment upon the administration of the EPC. The report is at the request of Commissioner Storms and is for information only.

**List of Attachments:** None