

**ENVIRONMENTAL PROTECTION COMMISSION
OF HILLSBOROUGH COUNTY
COMMISSIONER'S BOARD ROOM
SEPTEMBER 26, 2006
9:30 AM**

AMENDED AGENDA

INVOCATION AND PLEDGE OF ALLEGIANCE

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

- I. CITIZEN'S COMMENTS**
- II. CITIZEN'S ENVIRONMENTAL ADVISORY COMMITTEE**
Report from the Chair – David Jellerson
- III. CONSENT AGENDA**
 - A. Approval of Minutes: August 17, September 7, 2006 2
 - B. Monthly Activity Reports 8
 - C. Pollution Recovery Trust Fund Report 20
 - D. Gardinier Settlement Trust Fund Report 21
 - E. Legal Case Summary 22
 - F. Ford Amphitheatre Status Report 28
 - G. Approve Amended Interlocal Agreement Between HC & EPC 34
 - H. Grant Authority to Pursue Appropriate Legal Action Against:
Ryaid Suleiman, Siham jabber, et al. (Storage Tanks) 44
 - I. Apollo Beach Particulate Study 45
- IV. EXECUTIVE DIRECTOR'S REPORT**
 - A. Presentation – Agency Goals and Objectives **(Abbreviated)**
 - B. Announcement - Dedication of Roger P. Stewart Center – October 19, 2006
 - C. Announcement - First Annual Environmental Summit - October 10, 2006 51
- V. ADMINISTRATION**
Evaluation of the Executive Director
- VI. LEGAL DEPARTMENT**
 - A. Discussion – Pollution Recovery Fund Eligibility Criteria **(Deferred)** 52
 - B. Discussion - Cypress Creek Town Center Environmental Resources Permit
(Deferred) 55
- VII. ENVIRONMENTAL RESOURCES MANAGEMENT DIVISION**
 - A. Pollution Recovery Fund Annual Project Approvals 56
 - B. Draft EPC Seagrass Management Plan **(Deferred)** 63

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

Visit our website at www.ephc.org

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EPC Agenda Item Cover Sheet

Date of EPC Meeting: September 26, 2006

Subject: Evaluation of Executive Director

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

Division: Finance and Administration

Summary:

During the August EPC Board meeting, evaluation forms were distributed to commissioners. Four commissioners returned the completed evaluation forms. The results were compiled and a summary is attached to this document. Eight (8) dimensions under the category of "Behaviors" were evaluated and the average score of 4.81 was received on a scale of 1 through 5, with 5 representing outstanding behaviors. Five (5) dimensions under the category of "Accomplishment of Goals" were evaluated and the average score of 4.85 was received on a scale of 1 through 5, with 5 representing outstanding accomplishments.

In addition, three commissioners provided written comments and those have been provided on page four (4) of the evaluation attachment.

If the Board desires, the FY07 budget includes a ^{2/1}~~12%~~ salary increase for the Executive Director, effective October 1, 2006.

PERFORMANCE EVALUATION

SEPTEMBER 26, 2006

DR. RICK GARRITY

EXECUTIVE DIRECTOR

ENVIRONMENTAL PROTECTION COMMISSION

SUMMARY ASSESSMENT

Ranking – Behaviors & Accomplishments

HIGHEST

5. Behaviors/Accomplishments are outstanding and as such are obvious to others in county government and to members of the Community.
4. Behaviors/Accomplishments are excellent and recognized as more than just competent in that expectations are exceeded in the area of responsibility.
3. Behaviors/Accomplishments are good in that expectations are consistently met for the areas of responsibility.
2. Behaviors/Accomplishments are adequate but fall below expectations for the area of responsibility.
1. Behaviors/Accomplishments are below an acceptable level of expectations for the area of responsibility.

LOWEST

**DR. RICK GARRITY
EXECUTIVE DIRECTOR, ENVIRONMENTAL PROTECTION COMMISSION
ASSESSMENT**

BEHAVIORS								
	Leadership	Communication	Responsiveness	Respect & Fair Treatment	Quality of Staff Work	Service to the Community	Problem Solving	Management of Organization
Brian Blair	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Kathy Castor	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0
Ken Hagan	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Jim Norman	4.0	4.0	5.0	5.0	5.0	4.0	4.0	4.0
Tom Scott	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0
Mark Sharpe	5.0	5.0	5.0	5.0	4.0	5.0	5.0	5.0
Ronda Storms	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
<i>Average</i>	4.75	4.75	5.0	5.0	4.75	4.75	4.75	4.75

4.81

**DR. RICK GARRITY
EXECUTIVE DIRECTOR, ENVIRONMENTAL PROTECTION COMMISSION
ASSESSMENT**

ACCOMPLISHMENT OF GOALS					
	Regulatory Effectiveness	Regulatory Efficiency	Coordination with Regulatory Partners	Partnering for Better Compliance	Outreach
Brian Blair	N/A	N/A	N/A	N/A	N/A
Kathy Castor	5.0	5.0	5.0	5.0	5.0
Ken Hagan	N/A	N/A	N/A	N/A	N/A
Jim Norman	4.0	4.0	5.0	5.0	4.0
Tom Scott	5.0	5.0	5.0	5.0	5.0
Mark Sharpe	5.0	5.0	5.0	5.0	5.0
Ronda Storms	N/A	N/A	N/A	N/A	N/A
<i>Average</i>	4.75	4.75	5.0	5.0	4.75

4.85

Commissioner's Comments

Commissioner Sharpe: Dr. Garrity is a superb leader and stalwart defender of the environment. His tenure has been marked by sound policy making decisions and a commitment to working with all parties to solve challenging problems.

Commissioner Scott: Dr. Garrity has done an outstanding job for the citizens of Hillsborough.

Commissioner Castor: Dr. Garrity and the EPC professionals and personnel provide outstanding service to the citizens of Hillsborough County. A healthy and clean environment is paramount to the lives of our neighbors and citizens...keep up the good work.

**ENVIRONMENTAL PROTECTION COMMISSION
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SEPTEMBER 21, 2006
10 AM – 12 NOON**

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AUGUST 17, 2006 - ENVIRONMENTAL PROTECTION COMMISSION - DRAFT MINUTES

The Environmental Protection Commission (EPC), Hillsborough County, Florida, met in Regular Meeting, scheduled for Thursday, August 17, 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, Kathy Castor, Jim Norman, Thomas Scott, and Mark Sharpe.

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

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

CHANGES TO THE AGENDA

Dr. Richard Garrity, EPC Executive Director, reviewed the changes, which included Item IV.C., announcement of the return of Tom LaFountain from active military duty, and Item VIII, update on diesel retrofit project, being addressed directly following the Consent Agenda; addition of Item IX, legal report on Coronet-related lawsuit; and Item IV.D., mangrove delegation, being incorporated into Item IV.A., state of the environment report. **Commissioner Scott moved the changes, seconded by Commissioner Blair, and carried six to zero.** (Commissioner Hagan was absent.)

CITIZENS COMMENTS

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

CITIZENS ENVIRONMENTAL ADVISORY COMMITTEE (CEAC)

Report from the Chairman, David Jellerson - Mr. Jellerson stated the CEAC received updates from the applicants for pollution recovery fund (PRF) grants, which included citizen groups, environmental organizations, academic institutions, and government agencies. At the September 2006 meeting, the CEAC and EPC staff would develop recommendations for grant awards.

CONSENT AGENDA

- A. Approval of minutes: May 3, 2006, and June 15, 2006.
- B. Monthly activity reports.
- C. PRF.
- D. Gardinier Settlement Trust Fund.
- E. Legal case summary.
- F. Update on Channelside noise control delegation.

THURSDAY, AUGUST 17, 2006 - DRAFT MINUTES

- G. Ratify Executive Director's signature on the air pollution control specific operation agreement with the Florida Department of Environmental Protection (FDEP).
- H. Authorize the Executive Director to execute the enhanced small quantity generator program grant.

Commissioner Scott moved approval, seconded by Commissioner Castor, and carried six to zero. (Commissioner Hagan was absent.) Dr. Garrity responded to queries from Commissioner Norman regarding response from the city of Tampa related to a letter sent about noise updates. Chairman Storms suggested the time might be right to expand the use of PRF funding.

ANNOUNCEMENT OF THE RETURN OF TOM LAFOUNTAIN FROM ACTIVE MILITARY DUTY

Chairman Storms welcomed Mr. LaFountain and presented him with a plaque in recognition of 20 years of service with the EPC. Mr. LaFountain thanked everyone for their support. Chairman Storms encouraged all employers to accommodate returning service men.

AIR MANAGEMENT DIVISION

Update on Diesel Retrofit Project - Mr. Reginald Sanford, EPC staff, highlighted the history and purpose of the project, examples, grants, adverse health affects from diesel emissions, benefits, program achievements, and project partners. Ms. Karen Strickland, Hillsborough County School District (School District), thanked the County and Mr. Bryan Pointer, School District transportation department, for their cooperation, and she reviewed costs.

Mr. Dale Aspy, Environmental Protection Agency (EPA), referenced workshops held, rule changes, grants, and mentoring planned for other counties, and he presented a certificate of recognition to EPC staff and the School District.

EXECUTIVE DIRECTOR'S REPORT

State of the Environment Report - Dr. Garrity highlighted a presentation on the state of the environment, as presented in background material, and responded to queries from Chairman Storms regarding strategies for focusing on impaired waterways. Chairman Storms wanted to provide direction related to the use of impervious surfaces and incentives for developers. Dr. Garrity discussed impervious surfaces, air monitoring and quality, decreased hazardous air pollutants, noise pollution complaints, EPC green programs, mangrove preservation, and wastewater settlements. In response to Commissioner Blair, Dr. Garrity discussed how the state of the environment brochure was distributed. Commissioner Blair suggested distributing the brochure at

THURSDAY, AUGUST 17, 2006 - DRAFT MINUTES

schools and commented on air pollution reduction, County growth, and the use of PRF funding for the diesel retrofit project. Chairman Storms mentioned the loss of congestion mitigation and air quality funding. Referencing comments regarding improved air quality, Commissioner Scott asked if the EPC had reviewed the Tampa-Hillsborough County Expressway Authority (Expressway Authority) beltway proposal for impacts on air quality. Dr. Garrity noted that had not been studied. **Commissioner Scott moved to have staff meet with the Expressway Authority to look at the beltway as it related to Hillsborough County and environmental impacts, seconded by Commissioner Blair, and carried six to zero.** (Commissioner Hagan was absent.) Chairman Storms mentioned arguments against the beltway. Commissioner Norman referenced costs.

Acknowledgement of EPC Laboratory Certification and Program Audits - Dr. Garrity reviewed laudatory comments from FDEP and homeland security regarding the EPC Wastewater Division, the EPC Air Compliance Section, the EPC petroleum storage tank compliance program, the EPC laboratory certification, and the BioWatch Program.

ADMINISTRATION

Clarify Authority of Executive Director to Execute Contracts - Mr. Tom Koulianos, Director, EPC Finance and Administration, reviewed the item. Chairman Storms noted the EPC Executive Director needed authority to execute contracts. **Commissioner Scott moved approval, seconded by Commissioner Sharpe.** Commissioner Blair perceived anything that led to further costs should be clarified with the EPC Board before approval. Commissioner Scott asked if the Executive Director had the same authority provided to the County Administrator. Dr. Garrity stated the item would clarify his authority. **The motion carried six to zero.** (Commissioner Hagan was absent.)

Discuss Process for Evaluation of Executive Director - Mr. Koulianos reported evaluation forms were distributed, asked that the forms be filled out and returned to Chairman Storms by September, 12, 2006, and said the item would return to the September 2006 EPC meeting for action.

WASTE MANAGEMENT DIVISION

Present Green Yards Designation to Allen's Used Auto Parts and American and Import Auto Parts - Mr. Gerry Javier, EPC staff, highlighted a presentation on the Green Yards program and showed photographs of non-Green Yards facilities and Green Yards facilities. Chairman Storms presented a certificate and Green Yards flag to Mr. Mike Fakhar, Allen's Used Auto Parts. A certificate and Green Yards flag would be forwarded to Mr. Erik Kara, American and Import Auto Parts.

THURSDAY, AUGUST 17, 2006 - DRAFT MINUTES

Proclamation for Pollution Prevention (P2) Program - Mr. Javier reported the third week of September was recognized nationally as pollution prevention week, and the theme was healthy hospitals and homes. Chairman Storms presented a proclamation to Dr. Garrity in recognition of the P2 program.

ENVIRONMENTAL RESOURCES MANAGEMENT (ERM) DIVISION

Presentation on Basin Management Action Plan (BMAP) - Dr. Gerold Morrison, Director, EPC ERM Division, highlighted a presentation on BMAP, as presented in background material. Responding to Chairman Storms, Dr. Morrison stated BMAP was a legal requirement and reviewed alternative approaches, which were less proactive. He discussed the BMAP development process, current stakeholders, strategies, geographic areas, types of impairment, proposed scope, costs, and resources. Chairman Storms perceived the BMAP approach was cheaper than having the EPA involved. Dr. Morrison noted the BMAP approach would cost something in terms of staff time, FDEP was providing technical support, and in-kind contributions were received from local participants. Commissioner Sharpe left the meeting at 11:20 a.m. due to a schedule conflict.

LEGAL DEPARTMENT

Legal Report on Coronet-Related Lawsuit - EPC General Counsel Richard Tschantz recalled a lawsuit filed on behalf of citizens in the Coronet area; noted counsel for Coronet had stated the EPC and FDEP were being added to the lawsuit; perceived the County could argue immunity; noted negotiations with an outside firm in Tallahassee, Florida, to aide in the lawsuit; and stated the contract would be brought back to the EPC Board in the future. Commissioner Norman asked about joining the State in defending the lawsuit. Chairman Storms and Attorney Tschantz reviewed reasons why that might not be possible. Attorney Tschantz stated the EPC and FDEP had different responsibilities, but both agencies would work together.

THURSDAY, AUGUST 17, 2006 - DRAFT MINUTES

There being no further business, the meeting was adjourned at 11:25 a.m.

READ AND APPROVED: _____
CHAIRMAN

ATTEST:
PAT FRANK, CLERK

By: _____
Deputy Clerk

kc

SEPTEMBER 7, 2006 - ENVIRONMENTAL PROTECTION COMMISSION SPECIAL MEETING

The Environmental Protection Commission (EPC), Hillsborough County, Florida, met in Special Meeting, to consider Arbitration of the Tampa Bay Water Environmental Resource Permit Application for Infrastructure Expansions at the Lake Bridge Water Treatment Plant, scheduled for Thursday, September 7, 2006, at 2:06 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, Jim Norman, Thomas Scott, and Mark Sharpe.

Chairman Storms called the meeting to order at 2:06 p.m.

Mr. Anthony D'Aquila, EPC staff, reviewed staff recommendation not to arbitrate the item. **Commissioner Sharpe moved approval, seconded by Commissioner Blair, and carried seven to zero.**

There being no further business, the meeting was adjourned at 2:07 p.m.

READ AND APPROVED: _____

CHAIRMAN

ATTEST:

PAT FRANK, CLERK

By: _____
Deputy Clerk

kc

MONTHLY ACTIVITIES REPORT
 AIR MANAGEMENT DIVISION
 August FY 2006

A. Public Outreach/Education Assistance:

1. Phone Calls:	264
2. Literature Distributed:	0
3. Presentations:	1
4. Media Contacts:	0
5. Internet:	67
6. Host/Sponsor Workshops, Meetings, Special Events	0

B. Industrial Air Pollution Permitting

1. Permit Applications Received (Counted by Number of Fees Received):	
a. Operating:	2
b. Construction:	6
c. Amendments:	0
d. Transfers/Extensions:	0
e. General:	5
f. Title V:	0

2. Delegated Permits Issued by EPC and Non-delegated Permits Recommended to DEP for Approval (¹ Counted by Number of Fees Collected) - (² Counted by Number of Emission Units affected by the Review):	
a. Operating:	6
b. Construction:	18
c. Amendments:	0
d. Transfers/Extensions:	0
e. Title V Operating:	17
f. Permit Determinations:	2
g. General:	4

3. Intent to Deny Permit Issued:	0
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C. Administrative Enforcement

1. New cases received:	0
2. On-going administrative cases:	
a. Pending:	7
b. Active:	13
c. Legal:	5
d. Tracking compliance (Administrative):	25
e. Inactive/Referred cases:	0

Total 50

3. NOIs issued:	4
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4. Citations issued:	0
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5.	Consent Orders Signed:	<u>5</u>
6.	Contributions to the Pollution Recovery Fund:	<u>\$2,958.30</u>
7.	Cases Closed:	<u>1</u>
D.	Inspections:	
1.	Industrial Facilities:	<u>12</u>
2.	Air Toxics Facilities:	
a.	Asbestos Emitters	<u>0</u>
b.	Area Sources (i.e. Drycleaners, Chrome Platers, etc...)	<u>18</u>
c.	Major Sources	<u>1</u>
3.	Asbestos Demolition/Renovation Projects:	<u>22</u>
E.	Open Burning Permits Issued:	<u>13</u>
F.	Number of Division of Forestry Permits Monitored:	<u>296</u>
G.	Total Citizen Complaints Received:	<u>45</u>
H.	Total Citizen Complaints Closed:	<u>56</u>
I.	Noise Sources Monitored:	<u>6</u>
J.	Air Program's Input to Development Regional Impacts:	<u>3</u>
K.	Test Reports Reviewed:	<u>30</u>
L.	Compliance:	
1.	Warning Notices Issued:	<u>8</u>
2.	Warning Notices Resolved:	<u>44</u>
3.	Advisory Letters Issued:	<u>53</u>
M.	AOR's Reviewed:	<u>21</u>
N.	Permits Reviewed for NESHAP Applicability:	<u>0</u>

**FEES COLLECTED FOR AIR MANAGEMENT DIVISION
August FY 2006**

	Total Revenue
1. Non-delegated construction permit for an air pollution source	
(a) New Source Review or Prevention of Significant Deterioration sources	<u>\$0.00</u>
(b) all others	<u>\$0.00</u>
2. Non-delegated operation permit for an air pollution source	
(a) class B or smaller facility - 5 year permit	<u>\$0.00</u>
(b) class A2 facility - 5 year permit	<u>\$0.00</u>
(c) class A1 facility - 5 year permit	<u>\$0.00</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>\$4,440.00</u>
(b) Delegated operation permit for an air pollution source (20% of the amount collected is forwarded to the DEP and not included here)	<u>\$400.00</u>
(c) Delegated General Permit (20% is forwarded to DEP and not included here)	<u>\$4,800.00</u>
4. Non-delegated permit revision for an air	<u>\$0.00</u>
	<u>\$0.00</u>
5. Non-delegated permit transfer of ownership, name change or extension	<u>\$0.00</u>
6. Notification for commercial demolition	
(a) for structure less than 50,000 sq ft	<u>\$2,400.00</u>
(b) for structure greater than 50,000 sq ft	<u>\$600.00</u>
7. Notification for asbestos abatement	
(a) renovation 160 to 1000 sq ft or 260 to 1000 linear feet of asbestos	<u>\$600.00</u>
(b) renovation greater than 1000 linear feet or 1000 sq ft	<u>\$4,500.00</u>
8. Open burning authorization	<u>\$10,200.00</u>
9. Enforcement Costs	<u>\$2,042.00</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: September 8, 2006

TO: Tom Koulianos, Director of Finance and Administration

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

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

A. ADMINISTRATIVE ENFORCEMENT

1. New cases received	5
2. On-going administrative cases	114
a. Pending	7
b. Active	55
c. Legal	3
d. Tracking Compliance (Administrative)	35
e. Inactive/Referred Cases	14
3. NOI's issued	0
4. Citations issued	2
5. Consent Orders and Settlement Letters Signed	2
6. Civil Contributions to the Pollution Recovery Fund	\$26,225
7. Enforcement Costs collected	\$3,693
9. Cases Closed	4

B. SOLID AND HAZARDOUS WASTE

1. Permits (received/reviewed)	4/5
2. EPC Authorization for Facilities NOT requiring DEP permit	1
3. Other Permits and Reports	
a. County Permits	3/3
b. Reports	44/42
4. Inspections (Total)	176
a. Complaints	36
b. Compliance/Reinspections	16
c. Facility Compliance	30
d. Small Quantity Generator	93
e. P2 Audits	0
5. Enforcement	
a. Complaints Received/Closed	37/28
b. Warning Notices Issued/Closed	3/2
c. Compliance letters	56
d. Letters of Agreement	0
e. Agency Referrals	11
6. Pamphlets, Rules and Material Distributed	14

C. STORAGE TANK COMPLIANCE

1. Inspections	
a. Compliance	65
b. Installation	14
c. Closure	11
d. Compliance Re-Inspections	12
2. Installation Plans Received/Reviewed	16/12
3. Closure Plans & Reports	
a. Closure Plans Received/ Reviewed	07/05
b. Closure Reports Received/Reviewed	04/12
4. Enforcement	
a. Non-compliance Letters Issued/Closed	32/09
b. Warning Notices Issued/Closed	01/00
c. Cases referred to Enforcement	01
d. Complaints Received/Investigated	01/01
e. Complaints Referred	00
5. Discharge Reporting Forms Received	06
6. Incident Notification Forms Received	05
7. Cleanup Notification Letters Issued	06
8. Public Assistance	200+

D. STORAGE TANK CLEANUP

1. Inspections	41
2. Reports Received/Reviewed	132/138
a. Site Assessment	15/15
b. Source Removal	9/7
c. Remedial Action Plans (RAP's)	15/11
d. Site Rehabilitation Completion Order/ No Further Action Order	3/1
e. Active Remediation/Monitoring	56/60
f. Others	34/44
3. State Cleanup	
a. Active Sites	NO LONGER ADMINISTERED
b. Funds Dispersed	

E. RECORD REVIEWS - 26

F. PUBLIC INFORMATION PROJECTS - 0

ACTIVITIES REPORT
WATER MANAGEMENT DIVISION
August, 2006

A. ENFORCEMENT

1. New Enforcement Cases Received:	9
2. Enforcement Cases Closed:	7
3. Enforcement Cases Outstanding:	58
4. Enforcement Documents Issued:	16
5. Recovered costs to the General Fund:	\$2,035.00
6. Contributions to the Pollution Recovery Fund:	\$10,500.00

<u>Case Name</u>	<u>Violation</u>	<u>Amount</u>
a. United Site Services	Industrial Wastewater Discharge	\$2,000.00
b. Don Jose Plaza	Placement of c/s in service without acceptance letter	\$500.00
c. LaFleur Gymnastics	Placement of c/s in service without acceptance letter	\$500.00
d. Target Corp. Store T-0798	Improper operation/Failure to maintain/Lift/col sys. Overflow	\$4,000.00
e. Mercy House Complex	Placement of c/s in service without acceptance letter	\$500.00
f. Florida Veal Processors	Improper operation/Failure to maintain/Lift/col sys. Overflow	\$1,500.00
g. Mason Utilities Lots 1-7	Construction w/out a permit	\$1,000.00
h. Riverside Club	Placement of c/s in service without acceptance letter	\$500.00

B. PERMITTING/PROJECT REVIEW - DOMESTIC

1. Permit Applications Received:	38
a. Facility Permit:	0
(i) Types I and II	0
(ii) Types III	0
b. Collection Systems-General	16
c. Collection Systems-Dry Line/Wet Line:	22
d. Residuals Disposal:	0
2. Permit Applications Approved:	45
a. Facility Permit:	7
b. Collection Systems-General:	23
c. Collection Systems-Dry Line/Wet Line:	15
d. Residuals Disposal:	0

3. Permit Applications Recommended for Disapproval:	0
a. Facility Permit:	0
b. Collection Systems-General:	0
c. Collection Systems-Dry Line/Wet Line:	0
d. Residuals Disposal:	0
4. Permit Applications (Non-Delegated):	0
a. Recommended for Approval:	0
5. Permits Withdrawn:	0
a. Facility Permit:	0
b. Collection Systems-General:	0
c. Collection Systems-Dry Line/Wet Line:	0
d. Residuals Disposal:	0
6. Permit Applications Outstanding:	96
a. Facility Permit:	21
b. Collection Systems-General:	29
c. Collection Systems-Dry Line/Wet Line:	45
d. Residuals Disposal:	1
7. Permit Determination:	5
8. Special Project Reviews:	0
a. Reuse:	0
b. Residuals/AUPs:	0
c. Others:	0
C. INSPECTIONS - DOMESTIC	137
1. Compliance Evaluation:	9
a. Inspection (CEI):	0
b. Sampling Inspection (CSI):	7
c. Toxics Sampling Inspection (XSI):	0
d. Performance Audit Inspection (PAI):	2
2. Reconnaissance:	62
a. Inspection (RI):	25
b. Sample Inspection (SRI):	1
c. Complaint Inspection (CRI):	33
d. Enforcement Inspection (ERI):	3

3. Engineering Inspections:	66
a. Reconnaissance Inspection (RI):	5
b. Sample Reconnaissance Inspection (SRI):	0
c. Residual Site Inspection (RSI):	0
d. Preconstruction Inspection (PCI):	6
e. Post Construction Inspection (XCI):	55
f. On-site Engineering Evaluation:	0
g. Enforcement Reconnaissance Inspection (ERI):	0
D. PERMITTING/PROJECT REVIEW - INDUSTRIAL	43
1. Permit Applications Received:	2
a. Facility Permit:	1
(i) Types I and II	0
(ii) Type III with Groundwater Monitoring:	0
(iii) Type III w/o Groundwater Monitoring:	1
b. General Permit:	0
c. Preliminary Design Report:	0
(i) Types I and II	0
(ii) Type III with Groundwater Monitoring:	0
(iii) Type III w/o Groundwater Monitoring:	0
2. Permits Recommended to DEP for Approval:	1
3. Special:	0
a. Facility Permits:	0
b. General Permits:	0
4. Permitting Determination:	0
5. Special Project Reviews:	40
a. Phosphate:	4
b. Industrial Wastewater:	15
c. Others:	21
E. INSPECTIONS - INDUSTRIAL	39
1. Compliance Evaluation:	5
a. Inspection (CEI):	5
b. Sampling Inspection (CSI):	0
c. Toxics Sampling Inspection (XSI):	0
d. Performance Audit Inspection (PAI):	0

2. Reconnaissance:	27
a. Inspection (RI):	11
b. Sample Inspection (SRI):	0
c. Complaint Inspection (CRI):	15
d. Enforcement Reconnaissance Inspections (ERI):	1
3. Engineering Inspections:	7
a. Compliance Evaluation (CEI):	7
b. Sampling Inspection (CSI):	0
c. Performance Audit Inspection (PAI):	0
d. Complaint Inspection (CRI):	0
e. Enforcement Reconnaissance Inspections (ERI):	0
F. INVESTIGATION/COMPLIANCE	
1. Citizen Complaints:	46
a. Domestic:	36
(i) Received:	18
(ii) Closed:	18
b. Industrial:	10
(i) Received:	5
(ii) Closed:	5
2. Warning Notices:	
a. Domestic:	32
(i) Received:	17
(ii) Closed:	15
b. Industrial:	3
(i) Received:	2
(ii) Closed:	1
3. Non-Compliance Advisory Letters:	26
4. Environmental Compliance Reviews:	183
a. Industrial:	51
b. Domestic:	132
5. Special Project Reviews:	0
G. RECORD REVIEWS	
1. Permitting:	4
2. Enforcement:	2

H. ENVIRONMENTAL SAMPLES ANALYZED/REPORTS REVIEWED FOR:

1. Air Division:	111
2. Waste Division:	0
3. Water Division:	23
4. Wetlands Division:	0
5. ERM Division:	164
6. Biomonitoring Reports:	4
7. Outside Agency:	24

I. SPECIAL PROJECT REVIEWS:

	9
1. DRIs:	5
2. ARs:	1
3. Technical Support:	3
4. Other:	<u>0</u>

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

A. General	Totals
1. Telephone Conferences	880
2. Unscheduled Citizen Assistance	92
3. Scheduled Meetings	304
4. Correspondence	549
B. Assessment Reviews	
1. Wetland Delineations	47
2. Surveys	65
3. Miscellaneous Activities in Wetland	28
4. Impact/ Mitigation Proposal	23
5. Tampa Port Authority Permit Applications	38
6. Wastewater Treatment Plants (FDEP)	0
7. DRI Annual Report	2
8. Land Alteration/Landscaping	8
9. Land Excavation	1
10. Phosphate Mining	11
11. Rezoning Reviews	49
12. CPA	0
13. Site Development	82
14. Subdivision	128
15. Wetland Setback Encroachment	7
16. Easement/Access-Vacating	2
17. Pre-Applications	26
18. On-Site Visits	210
C. Investigation and Compliance	
1. Complaints Received	33
2. Warning Notices Issued	18
3. Warning Notices Closed	17
4. Complaint Inspections	50
5. Return Compliance Inspections	70
6. Mitigation Monitoring Reports	3
7. Mitigation Compliance Inspections	25
8. Erosion Control Inspections	59
D. Enforcement	
1. Active Cases	28
2. Legal Cases	2
3. Number of "Notice of Pending Enforcement"	1
4. Number of Citations Issued	0
5. Number of Consent Orders Signed	5
6. Administrative - Civil Cases Closed	0
7. Cases Referred to Legal Department	2
8. Contributions to Pollution Recovery	\$5,950.00
9. Enforcement Costs Collected	\$1,175.00

**ENVIRONMENTAL PROTECTION COMMISSION
OF HILLSBOROUGH COUNTY
POLLUTION RECOVERY TRUST FUND
AS OF 08/31/06**

Balance as of 10/01/05	*	\$1,491,768
Interest Accrued		74,251
Deposits	FY06	375,895
Disbursements	FY06	239,398
Pollution Recovery Fund Balance		\$1,702,516

Old Encumbrances

Remedial Illegal Dump Asbestos (66)		4,486
USF Seagrass Restoration (99)		26
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		3,023
Artificial Reef Program		27,716
Pollution Prevention/Waste Reduction (101)		23,012
PRF Project Monitoring		4,453
Total		154,390

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
Knights Preserve		35,235
Agriculture Best Mgmt Practice Implementation		150,000
School Bus Retrofit		(100,000)
Total		695,997

Total of Encumbrances

\$ 850,387

Minimum Balance

120,000

Balance Available 8/31/06

\$732,129

*** 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		\$ 583,627

COMMISSION
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 Ken Hagan
 Jim Norman
 Thomas Scott
 Mark Sharpe
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Executive Director
 Richard D. Garrity, Ph.D.

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

Fund Balance as of 10/01/05	\$ 608,646
Interest Accrued	79,769
To Correct Interest Transfer	(63,150)
Disbursements FY06	345,590

Fund Balance	\$ 279,675
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Encumbrances Against Fund Balance:

SP625 Marsh Creek/Ruskin Inlet	\$ 25,900
SP627 Tampa Bay Scallop Restoration	25,170
SP615 Little Manatee River Restoration	- 0 -
SP636 Fantasy Island	20,000
SP630 E.G. Simmons Park	100
SP634 Cockroach Bay ELAPP Restoration	208,505
Total of Encumbrances	\$ 279,675

Fund Balance Available August 31, 2006	\$ - 0 -
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EPC Agenda Item Cover Sheet

Date of EPC Meeting: September 21, 2006

Subject: Legal Case Summary for September 2006

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

Division: Legal Department

Recommendation: None, informational update.

Brief Summary: The EPC Legal Department provides a monthly list of all its pending civil matters, administrative matters, and cases that parties have asked for additional time to file an administrative challenge.

Background: In an effort to provide the Commission a timely list of pending legal challenges, the EPC staff provides monthly updates. The updates not only can inform the Commission of pending litigation, but may be a tool to check for any conflicts they may have. 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 or to negotiate a settlement.

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

EPC LEGAL DEPARTMENT MONTHLY REPORT
September 2006

A. ADMINISTRATIVE CASES

NEW CASES [0]

EXISTING CASES [8]

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)

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

Envirofocus Technologies, LLC (f/k/a 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. On June 1, 2006, Gulf Coast Recycling transferred the facility to a new owner, Envirofocus Technologies, LLC, who has indicated a willingness to improve the facility but the case remains open until resolution of the application. The permit, the renewal application, and the petition against the permit have all been transferred into Envirofocus Technologies name. (RM)

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 a gasoline service station located at 12302 Balm Riverview Road. Ultimately on June 12, 2006 the Respondent timely filed an appeal. The matter has been consolidated with the following two cases and will be assigned to one hearing officer. (AZ)

Medallion Convenience Stores, Inc. [LEPC05-023]: (See above case) 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 a gasoline service station located at 12302 Balm Riverview Road. Ultimately on June 15, 2006 the Respondent timely filed an appeal. The matter is has been consolidated with the above and below cases and the appeals are being assigned to one hearing officer. (AZ)

MDC 6, LLC [LEPC05-022]: (See above two cases) 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 a gasoline service station located at 12302 Balm Riverview Road. Ultimately on June 15, 2006, the Respondent timely filed an appeal. The matter has been consolidated with the above two cases and the appeals are being assigned to one hearing officer. (AZ)

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. On June 8, 2006 Appellant filed a second request for extension of time. It was determined that the request did not show good cause and the request was denied. Mr. Irshaid had until July 19, 2006 to file an appeal. On July 10, 2006 Mr. Irshaid filed an insufficient Notice of Appeal which was dismissed with leave to amend. Mr. Irshaid had until July 28, 2006 to file an amended appeal. Mr. Irshaid filed an appeal on July 18, 2006 and the matter has been forwarded to a Hearing Officer. (AZ)

Gomez, Elizabeth and Kerry v. Connelly, Lisa and Leonard [LEPC06-024]: On August 4, 2006 Elizabeth and Kerry Gomez filed an appeal challenging a revised miscellaneous activity permit for the construction of a dock on Egypt Lake at 7312 Egypt Lake Drive in Tampa on property owned by Lisa and Leonard Connelly. On August 14, 2006 a Hearing Officer was appointed and the case has been forwarded. (AZ)

RESOLVED CASES [3]

IMC Phosphates, Inc. v. EPC [LIMC04-007]: IMC Phosphates timely requested two extensions of time to file an appeal challenging the Executive Director's decision dated February 25, 2004 regarding the review of justification of wetland impacts for Four Corners MU19E. The EPC entered a second Order Granting the Request for Extension of Time until September 13, 2004 to file the appeal. On September 10, 2004, IMC Phosphates filed its appeal and the matter has been referred to the Hearing Officer. The case has been put in abeyance pending settlement discussions for resolution of this matter and future wetland impact authorizations. A Notice of Change of Agency Action and Motion to Relinquish Jurisdiction was filed on July 11, 2006. On July 14, 2006 Appellant filed an Objection to the Notice of Change of Agency Action and Motion to Relinquish Jurisdiction. The Appellant has subsequently withdrawn their objection and the Hearing Officer has relinquished jurisdiction in the matter. The case has been closed. (AZ)

7-Eleven, Inc. [LEPC06-019]: On May 31, 2006, 7-Eleven, Inc. filed a request for extension of time to file a Notice of Appeal regarding a Citation of Violation and Order to Correct that was issued for the facility located at 8002 N. 56th Street in Tampa, FL. The request was denied and the Appellant had until July 11, 2006 to file a Notice of Appeal. On July 10, 2006 a Notice of Appeal was filed. The parties have subsequently entered into a settlement for corrective actions and the payment of penalties and costs. The case has been closed. (AZ)

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. On May 1, 2006 Appellant's Counsel filed an Appeal for Administrative Hearing challenging the Citation of Violation and Order to Correct. The appeal has been forwarded to a Hearing Officer. On September 1, 2006 the EPC Executive Director withdrew the challenged citation while reserving the right to reinitiate enforcement. The EPC will pursue the operator at the facility, Irshaid Oil, Inc. (see above case). This case has now been closed. (AZ)

B. CIVIL CASES

NEW CASES [0]

EXISTING CASES [9]

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. The deadline for the conveyance of the property is June 23, 2006. The EPC and potential purchaser are negotiating an amended consent order to allow additional time to purchase the property. If the property is not timely sold, the Legal Department will reinstate litigation with the current owners. (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. (AZ)

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. (RM)

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 and Mr. Molina is thus far unable to be located. 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)

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 appeal has been transferred to the Second District Court of Appeal and the EPC is pending. (AZ)

Miley's Radiator Shop [LEPC06-011]: Authority was granted on April 20, 2006 to pursue appropriate legal action against Miley's Radiator Shop, Calvin Miley, Jr., Calvin Miley, Sr., and Brenda Joyce Miley Tyner for waste

management violations for improper storage and handling of car repair related wastes on the subject property. In addition, a citation was entered against the respondents on October 28, 2005 requiring specific corrective actions. The Respondents have not complied with the citation. The EPC is preparing to file a lawsuit for the referenced violations. (AZ)

RESOLVED CASES [1]

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 has now been settled in a Consent Order and the corrective actions are being performed. (AZ)

C. OTHER OPEN CASES [9]

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)

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. Two additional extensions were granted, extending the deadline to file a petition to April 11, 2006. On May 3, 2006 Citgo Petroleum filed another request for an extension on a revised permit and also requested a meeting to address and work toward resolving any remaining issues. An extension was granted until June 14, 2006 and a meeting scheduled. CITGO requested additional time to perform environmental testing and therefore an extension of time was granted until November 1, 2006. (RM)

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 an appeal for administrative hearing. The request was granted and the Appellants had until April 10, 2006 to file an appeal. Four subsequent extensions of time have been requested and the appellants have until August 25, 2006 to file a Notice of Appeal. The parties are negotiating a global Consent Order for multiple violations, including the February 2006 event. On August 29, 2006 an Order Rescinding Emergency Order was issued and the case has been closed. (RT)

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. On May 10, 2006, the petitioner

filed a second request for an extension of time, the request was granted and the petitioner had until August 21, 2006 to file a petition in this matter. On August 10, 2006, Petitioner filed a third request for an extension of time. The request was granted and the Petitioner has until November 20, 2006 to file a petition. (RT)

7-Eleven, Inc. [LEPC06-015]: On May 9, 2006, 7-Eleven, Inc. filed a request for an extension of time to file a Notice of Appeal regarding a Citation of Violation and Order to Correct that was issued on April 28, 2006 to store # 23741 located at 7124 N. Dale Mabry Highway in Tampa. The request was granted and the Appellant had until July 21, 2006 to file an appeal. A second extension of time was granted and the Appellant had until August 10, 2006 to file an appeal in this matter. On August 9, 2006 7-Eleven entered into a Consent Order and the case has been closed (AZ)

James Hardie Building Products, Inc. [LEPC06-018]: One June 1, 2006, James Hardie Building Products, Inc. filed a request for an extension of time to file a Petition for Administrative Hearing regarding a combined Air operation and Construction permit. The request was granted and the Petitioner has until August 4, 2006 to file a petition in this matter. Due to ongoing settlement talks, a third extension has been approved through October 9, 2006. (RM)

Madison Lane, LLC [LEPC06-022] On July 17, 2006, Madison Lane filed for a 90-day extension of time to file a petition for hearing regarding disputes over permit renewal denial the EPC issued them for their mobile home park's wastewater treatment plant. The EPC granted an extension through October 20, 2006, in an effort to resolve the matter. (RM)

Mosaic Fertilizer, LLC [LEPC06-023]: On July 19, 2006, Mosaic Fertilizer, LLC filed a request for an extension of time to file a petition for administrative hearing regarding a draft Air permit for the facility located at Big Bend Terminal, 12839 Wyandotte Road in Gibsonton. The request was granted and the Petitioner has until September 15, 2006 to file a petition. (RT)

Hess Corporation [LEPC06-025]: On August 22, 2006 Hess Corporation filed a request for extension of time to file a petition for hearing regarding an Air Construction permit. An Order granting the extension of time was issued and the Petitioner had until September 27, 2006 to file a petition. On September 1, 2006 Hess Corporation retracted their request for an extension because the issues of concern had been resolved. The case has been closed. (RT)



EPC Agenda Item Cover Sheet

Date of EPC Meeting: September 21, 2006

Subject: Ford Amphitheatre Status Report

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

Division: Legal

Recommendation: For Information Only

Brief Summary: As a result of the November 2005 Settlement Agreement between the EPC and Clear Channel Entertainment, LLC (now Live Nation) regarding the Ford Amphitheatre noise exceedences, Live Nation is required to submit monthly update and status reports. The reports detail the progress made toward sound mitigation efforts and other updates. The report is attached for the Commission's review.

List of Attachments: Ford Amphitheatre / August 2006 Status Report

REC'D

SEP 08 2006

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OF H.C.

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August 31, 2006

VIA EMAIL
ORIGINAL SENT VIA U.S. MAIL

Richard D. Garrity, PhD, Executive Director
ENVIRONMENTAL PROTECTION COMMISSION
HILLSBOROUGH COUNTY
3629 Queen Palm Drive
Tampa, FL 33619

RE: Ford Amphitheatre/ August Status Report

Dear Dr. Garrity:

The purpose of this letter is to update the Environmental Protection Commission ("EPC") on the status of the sound wall improvement since our last written update of July 18, 2006 and address some of the comments made at the County Commission Town Hall Meeting on Thursday, August 24, 2006 at First Baptist Church of Temple Terrace.

On July 31, 2006, there was an Amphitheatre Task Force meeting at Ford Amphitheatre. The Task Force Members that were present were: Ed Morrell, Richard Dakin (King's Forest), Joe Gross (Temple Terrace), Barbara Merritt (Pardeau Shores) and JoAnne O'Brien (East Lake). Preston Floyd (The Woodlands) and Mary McNatt (Staley Estates - EPC Appointee) were not in attendance. In addition to Wilson Rogers, John Ahrens (Design Director) and Tony Cima (Regional Facilities Director) were also present. Mr. Ahrens was able to thoroughly review the design and function of the wall for the Task Force members and answer their questions. Mr. Rogers concluded by inviting any of the Task Force members to any concert so they can observe the interim measures being implemented pursuant to the Settlement Agreement dated November 29, 2005 ("Settlement Agreement") with the EPC. The August Task Force Meeting was set for August 30, 2006 at 6:00 p.m. but was cancelled due to Tropical Storm Ernesto. It will most likely be rescheduled for mid-September.

With respect to the construction schedule, Bennett Builders, Inc. has started forming the frame for the mat foundation and the rebar has been delivered on site. Work will commence next week on installing the rebar into the forms. The fabrication of the steel currently at Dixie Southern in Tampa is scheduled to be completed and delivered to the job site on October 15. The metal panels are scheduled to be delivered on November 4. According to the schedule generated by Bennett, the wall will be completed by the end of the year.

Richard D. Garrity, PhD, Executive Director
ENVIRONMENTAL PROTECTION COMMISSION
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We have done an analysis of EPC's data of complaints for the eighteen (18) concerts at the Amphitheatre in 2006 relative to the first eighteen (18) shows at the beginning of the Amphitheatre starting with Earth, Wind and Fire on July 27, 2004. However, we have not included the 2005 Fair acts as those were minor shows and not headliner events. And, we did not include the Charlie Daniels benefit concert in December of 2004 as it was a small charity function. From July 27, 2004 through April 30, 2005, the eighteen (18) Amphitheatre concerts produced approximately 211 complaints or almost 12 complaints per show. In 2006, there have been 36 complaints for the first eighteen (18) shows notwithstanding the concerted effort on the part of a least one individual to encourage people to call and complain anytime there is a show. That equates to 2 complaints per show.

One area that continues to trouble us is the ambient noise issue. Sound meters do not distinguish between the different types of sound, whether it is music, an automobile, insects or a dog barking. Yet sounds that are different in tonal quality or rhythmic nature, such as music, can easily be heard at levels well below the ambient sound.

When sound levels from a concert are not substantially higher than the background sound (at least 10 dB), it can be difficult to determine the sound level of the concert source alone as both the ambient and the sound that is to be measured contribute to the overall numerical value of the measurement. According to our sound consultants, Wrightson, Johnson, Haddon & Williams, if the ambient sound level in the neighborhoods surrounding Ford Amphitheatre was 54 dBA and the concert sound level was 54 dBA, the resulting sound level measured on the meter would be 57 dBA. This value is based on how the logarithmic dB scale adds sound together. As noted above, sound level meters do not discriminate among sounds in the environment. They measure all sound that is present at the microphone, regardless of source. In the example above, a violation of the 55 dBA Hillsborough County standard would be recorded if the measurement was not corrected for the influence on the numerical value of the ambient sound levels.

Based on the local sound monitoring that has occurred on nights there is not a show, there is a substantial amount of ambient noise in the neighborhoods around Ford Amphitheatre. The readings are attached to this letter. Please note the Lmax measurements for the 11 readings average 63.4 dBA which is in excess of Hillsborough County regulations. Yet, if sound from a show is generating 55 dBA, but the ambient is 63 dBA, the sound monitor will record the higher measurement and an exceedance will most likely be assumed. This is something that clearly must be addressed in the future.

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Finally, we want to take a few moments and address some of the comments made in the Town Hall Meeting in Temple Terrace with the Board of County Commissioners and the Temple Terrace City Council. From our reading of the transcript of the meeting, two individuals spoke relative to the sound from Ford Amphitheatre.

The first was Lillian Stark who lives in Eureka Springs. Mrs. Stark said that "...we were told something would be done..." referring to the sound from Ford Amphitheatre. It is being done. We have designed and are now constructing a multi-million dollar state-of-the-art sound wall as requested by the Board of County Commissioners. As represented by you at the meeting, and as stated above, it is scheduled to be complete by the end of 2006.

One positive note from her comments was that she stated that she does not "...hear it as frequently or...as loudly." Interestingly, when you look on the ambient sound level readings on non-show nights attached to this letter, you see two of the highest readings at the Stark residence: 70.49 dBA and 67.98 dBA .

The other speaker was Edward Schroering, who, as you know, was a litigant against the Ford Amphitheatre, and who, we believe, has remained active in his opposition to its operation. Because he made so many accusations, I want to address most of them individually and in order:

"Excessive noise continues to be a problem" EPC is charged with the task of enforcing its noise ordinance and the permissible sound levels established therein. We are unaware of any violation of those standards at Dr. Schroering's house in 2006. In fact, when the Ford Amphitheatre staff wanted to gain access to his property to conduct readings after he called and complained the night of a concert, they were turned away by him.

"The proposed wall is irrelevant" We strongly disagree. Live Nation, at the request of the Board of County Commissioners, is spending millions of dollars to mitigate sound from the Ford Amphitheatre. The wall is certainly not irrelevant to the EPC staff and Board of County Commissioners, and it is particular not irrelevant to those residents in Staley Estates, King's Forest, Pardeau Shores, East Lake, The Woodlands, and Temple Terrace.

"The issue here is what level of noise will be legally allowed...EPC...has given up the fight to protect our quality of life...EPC and three commissioners have decided to cater to the Ford Amphitheatre by inexplicably seeking to increase the amount of noise allowed in our neighborhoods." First, EPC spent hundreds of thousands of dollars and thousands of man-hours seeking to enforce its sound ordinance and extracting a settlement that not only addresses the construction of a sound wall, but imposes interim measures designed to improve conditions for neighbors around the Amphitheatre until the wall is in place. As part of the Settlement Agreement, EPC secured \$50,000 to cover the cost of post wall monitoring so it would not be a burden on the taxpayers. Second, any person in Hillsborough County has the right to seek a variance from the EPC Noise Rules. Ford Amphitheatre sought a variance and it was voted

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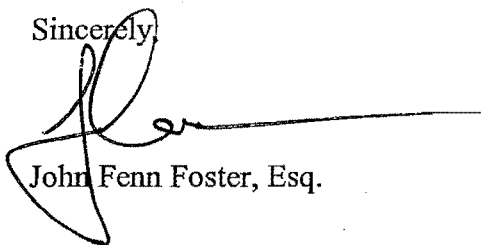
down. However, the Board of County Commissioners made it abundantly clear that Ford Amphitheatre should build the wall. All of the Commissioners supported this request and this is exactly what we are doing. Third, the issue is not what level of noise will be legally allowed. Our Settlement Agreement with EPC dated November 29, 2005 affirms the EPC Noise Rules and its application to the Ford Amphitheatre. The permissible levels have not been changed by EPC nor has any change been requested by Ford Amphitheatre subsequent to the variance decision. Therefore, neither EPC nor the County Commissioners are seeking to "...increase the amounts of noise allowed in our neighborhoods." Moreover, that is really not the issue. The issue is to build the wall as directed by the County Commissioners and determine its ultimate effectiveness by monitoring at least ten (10) shows after it is built.

"As far as I know, the Ford Amphitheatre doesn't have to pay property taxes" Ford Amphitheatre paid \$157,284 in real property and tangible personal property ad valorem taxes in 2005 to Hillsborough County and will pay a similar amount in 2006.

"Ford Amphitheatre will apply again in 2007 for a variance" Nothing in the Settlement Agreement, or in any correspondence to date, indicates that Ford Amphitheatre will, in fact, apply for a variance in 2007. This is merely unfounded speculation. After the monitoring of the ten (10) concerts, we have the right to seek a variance. But, there has not been any decision or indication to do so. In fact, our objective is to not need a variance based on the performance of the wall.

Please call or write if you have any questions.

Sincerely,



John Fenn Foster, Esq.

JFF/

Attachment

cc: G. Wilson Rogers, Sr. Vice President, Live Nation Venues
James Tucker, Esq., Live Nation
Ed Morrell, Ford Amphitheatre
Charles Pesano, Ex. Dir., Fla. State Fair Authority
Sandy MacKinnon, Chairman, Fla. State Fair Authority
Ford Amphitheatre Community Advisory Task Force

Ford Amphitheatre – Neighborhood Ambient Noise Recordings

Ford Amphitheatre
Neighborhood Monitoring Program

EVENT: Ambient
Recordings

<u>Location</u>	<u>Date</u>	<u>Duration</u>	<u>Lmax</u>	<u>Leg</u>	<u>Notes</u>
Pyramid	19-Jun-06	5:07	63.89	59.19	
Eureka	17-Jul-06	5:29	70.49	54.25	Stark Residence
Pyramid	17-Jul-06	5:01	60.22	54.80	
Deleuil	17-Jul-06	5:02	66.72	51.94	Ms. Geisler
Deerwood	17-Jul-06	5:00	62.16	54.97	
Staley	17-Jul-06	5:01	58.48	54.57	
Mohawk	17-Jul-06	5:00	60.92	53.59	Ms. McNatt
Eureka	22-Aug	5:00	67.98	50.01	Stark Residence
Deerwood	22-Aug	4:33	69.54	53.73	
Pyramid	22-Aug	5:01	56.53	50.66	
Deleuil	22-Aug	5:00	60.46	51.23	



EPC Agenda Item Cover Sheet

Date of EPC Meeting: September 21, 2006

Subject: First Amended Interlocal Agreement Between Hillsborough County and the EPC for Support of Environmental Monitoring Programs Benefiting Potable Water Supplies

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

Division: Environmental Resource Management

Recommendation: Approve First Amended Interlocal Agreement Between Hillsborough County and the Environmental Protection Commission of Hillsborough County for Support of Environmental Monitoring Programs Benefiting Potable Water Supplies

Brief Summary: On September 21, 2005, the County and the EPC entered into an Interlocal Agreement for support of environmental monitoring programs that benefit water supplies. This Interlocal Agreement is proposed to be amended to incorporate updated budget for FY 07, reflect the new name of the former Water Department, and minor changes to reporting requirements. Budget funds identified for FY 07 shall be up to \$388,984, based upon EPC requests for reimbursement for services.

Background: On September 21, 2005 the Board of County Commissioners approved the initial Interlocal Agreement between Hillsborough County and the Environmental Protection Commission of Hillsborough County (EPC) for support of environmental monitoring programs that distinctly benefit water supplies. That action was approved by the EPC Board at its Regular Meeting on September 15, 2005.

EPC staff now requests that the EPC Board approve and execute the attached First Amended Interlocal Agreement between the EPC and Hillsborough County for support of environmental monitoring programs that benefit the County's potable water supplies.

On May 5, 2005 the County's Bond Counsel found that some activities conducted by the EPC would qualify for funding with utility revenues "...to the extent the EPC services are determined by the County's Water Resource Services to be services that are necessary for the operation and maintenance of the System, and provided that expenditures for the EPC Services are calculated in accordance with generally accepted accounting principles for public utilities." Given Bond Counsel's guidance, the Water Resource Services and the EPC negotiated the initial Interlocal Agreement last year for FY06 and FY07 for support of environmental monitoring programs that distinctly benefit water supplies. The Agreement outlines four objectives for the EPC's activities in regard to completion of the Hillsborough Independent Monitoring Program, the continuation of the Surface Water Quality Monitoring, Benthic Organism and Sediment Chemistry Monitoring and Environmental Monitoring Programs, and the support of new initiatives to assist in the implementation of Total Maximum Daily Load and Basin Management Plan regulations. The Agreement also addresses monthly and annual work products that the EPC is providing to the Water Resource

Services, in addition to mechanisms for both parties to review and reconcile issues and to re-evaluate the terms of the Agreement at appropriate intervals during the County's two-year budget cycle.

The First Amended Interlocal Agreement primarily addresses minor corrections in naming procedures (e.g. -- the new name: Water Resource Services), minor modifications to FY 07 budget levels, and minor changes to reporting protocols, which are basically moving to a quarterly reporting cycle rather than monthly. With the proposed amended agreement, the parties are not proposing to add or remove any services.

The funding level provided under the Agreement total up to \$388,984 in FY07 for necessary personal, operating and capital expenses. Personnel costs covered in the Amended Agreement represent 5.7 Full Time Equivalents of the EPC's 8 personnel that support activities that were previously funded by the Hillsborough County Water Resource Team. Expenses contemplated under the Amended Agreement for FY07 represent an increase of \$20,919 over the amount approved in the original agreement of \$368,065. A portion of this is attributed to annual increases in personal expenses due to merit increases and associated expenses. The balance is related to the impact of additional utility and maintenance expenses at the EPC's Ybor City office. With the on-going renovation of the EPC's Sabal Park offices to include their laboratory facilities, these increased costs are expected to decline in the next budget cycle, as staff funded under this Amended Agreement and the associated analytical laboratory relocate to the Sabal Park facility.

The amended agreement is acceptable to both Water Resource Services and the EPC. The Board of County Commissioners is scheduled to consider the agreement at its meeting on October 4, 2006.

List of Attachments: Proposed First Amended Interlocal Agreement

FIRST AMENDED INTERLOCAL AGREEMENT

Between
HILLSBOROUGH COUNTY
and the
ENVIRONMENTAL PROTECTION COMMISSION OF HILLSBOROUGH COUNTY
For Support of Environmental Monitoring Programs Benefiting Potable Water Supplies

THIS FIRST AMENDED INTERLOCAL AGREEMENT, hereinafter referred to as the "Agreement," made and entered into this _____ day of _____, 2006, by and between Hillsborough County, a political subdivision of the State of Florida ("COUNTY"), located at 601 E. Kennedy Blvd., Tampa, Florida 33602, and the Environmental Protection Commission of Hillsborough County ("EPC"), a political subdivision of the State of Florida, located at 3629 Queen Palm Drive, Tampa, Florida 33619.

WITNESSETH:

WHEREAS, it is the purpose and intent of this Agreement, the parties hereto, and Section 163.01, Florida Statutes, known and referred to as the Florida Interlocal Cooperation Act of 1969 ("Cooperation Act"), to permit and authorize the COUNTY and EPC to make the most efficient use of their respective powers, resources, authority, and capabilities by enabling them to cooperate on the basis of mutual advantage and thereby provide the services and efforts provided for herein in the manner that will best utilize existing resources, powers and authority available to each of them; and,

WHEREAS, it is the purpose of the Cooperation Act to provide a means by which the COUNTY and EPC may exercise their respective powers, privileges and authority which they may have separately, but which pursuant to this Agreement and the Cooperation Act they may exercise collectively; and,

WHEREAS, the EPC is a local government environmental agency created by Special Act 84-446, Laws of Florida as amended, implements various environmental regulatory programs and conducts activities designed to monitor, prevent, and minimize pollution; and,

WHEREAS, EPC's activities include, but are not limited to, conducting sampling, analysis, and evaluation of water quality, benthic organisms, and sediment chemistry within Hillsborough County to provide the basis of an environmental monitoring program in support of Hillsborough County; and,

WHEREAS, the County's activities include, but are not limited to, the operation and maintenance of a potable water treatment and distribution system (SYSTEM) for the purpose of supplying its customers with high quality potable water in an environmentally sensitive, cost

conscious manner, and in accordance with Bond Covenants governing the expenditures of the SYSTEM; and,

WHEREAS, the COUNTY is a party to the Tampa Bay Water Governance Agreement (dated May 1, 1998) which requires the parties, among other things, to pursue alternative water supply facilities to minimize environmental degradation; and,

WHEREAS, the COUNTY endeavors to ensure that Tampa Bay Water complies with its various contractual and environmental obligations, including but not limited to the Governance Agreement, Partnership, and multiple permits needed to facilitate water supply; and,

WHEREAS, the COUNTY currently benefits from EPC's water quality monitoring and benthic programs, sharing of data, information, and laboratory services; and,

WHEREAS, the EPC and the COUNTY have determined that it is in the best interest of both parties to have the EPC continue to perform ongoing water quality and benthic monitoring to assess the health of Hillsborough County waters and whether water supply projects are impacting them; and,

WHEREAS, EPC and the COUNTY agree that a contractual agreement evidencing their understanding and efforts to their respective contractual obligations or monitoring activities will benefit both EPC and the COUNTY, as well as facilitate a more efficient allocation of resources to achieve a common goal; and,

WHEREAS, EPC and the COUNTY entered into the original Interlocal Agreement on September 21, 2005, and this First Amended Interlocal Agreement rescinds and replaces the original interlocal agreement;

NOW, THEREFORE, the COUNTY and EPC hereby agree as follows:

1. PURPOSE: EPC will conduct for the COUNTY, for the benefit of the continued operation and maintenance of the SYSTEM via this agreement managed by Hillsborough County Water Resource Services (HCWRS), ongoing water quality and benthic monitoring to assess the health of County waters and whether water supply projects are impacting County waters. The HCWRS, through the mechanism of interdepartmental fund transfer, will provide budgetary resources to the EPC to underwrite the costs of providing this monitoring. The parties will identify responsibilities, provide program objectives, establish schedule of deliverables, agree to specific levels of funding, and set implementation and operational parameters to define performance and scope of services provided by the EPC in support of environmental monitoring on behalf of, and benefiting, the HCWRS.

2. RESPONSIBILITIES:

a) The EPC is responsible to:

Conduct sampling, analysis, and evaluation of water quality, benthic organisms, and sediment chemistry within Hillsborough County to provide the basis of an environmental monitoring program in support of the HCWRS.

b) The HCWRS is responsible to:

Provide funding to resource the activities of the personnel, equipment procurement and operating costs associated with the EPC environmental monitoring program in support of the HCWRS.

Ensure that the activities conducted by the EPC specified in this Agreement benefit the operation and maintenance of the County's water utility system pursuant to all applicable Bond Covenants governing the expenditures of the SYSTEM.

3. OBJECTIVES:

a) Continue with the completion of the Hillsborough Independent Monitoring Program (HIMP). The HIMP benefits the SYSTEM by detecting and quantifying environmental changes that may occur as a result of new regional water supply projects that are being implemented in Hillsborough County, providing early warning and initiating remediation to assure environmentally sustainable supplies of potable water.

b) Continue the implementation of the Surface Water Quality Monitoring Program (SWQMP), as currently configured and comprised of bay and tributary stations.

c) Continue the implementation of the Benthic Organisms and Sediment Chemistry Monitoring Program (BOSCMP), as currently configured and comprised of bay and tributary stations.

Together, the SWQMP and BOSCMP benefit the SYSTEM by providing an accurate scientific water quality data base that supports effective planning and resource management for system development review decisions, expansion, standard effluent limitation plans, reuse/reclaimed policy development and program implementation, protection of the resource, and compliance with regulations established through the Federal Water Pollution Control Act of 1972 (Clean Water Act), the Federal Safe Drinking Water Act of 1974, and other similar regulations as promulgated by FDEP.

d) Continue the implementation of the Environmental Monitoring Programs (EMP) relative to the ecological assessment and resource protection of the surface water systems, wellfields, rivers, springs, streams, and wetlands of Hillsborough County, as these relate to protecting and preserving potable water supply. The EMP benefits the SYSTEM by detecting and quantifying environmental changes that may occur as a result of, but not limited to, groundwater withdrawal, impact mitigation programs, storage of surface waters, implementation of minimum flows and levels regulations, or operations of Aquifer Storage and Recovery programs, all of which have direct impacts upon available supplies of potable water.

e) Support new initiatives in freshwater benthic and water quality monitoring to further safeguard the water resources of Hillsborough County and assist in the County's implementation of TMDL regulations and Basin Management Action Plans (BMAPs).

The TMDL/BMAP benefit the SYSTEM by providing an accurate scientific water quality data base that supports effective planning and resource management for developing programs and actions to comply with TMDL guidelines and improve water quality overall through elimination of contaminants, thus safeguarding SYSTEM water supplies and capacity for SYSTEM expansion.

4. DELIVERABLES:

a) EPC will maintain electronic database of raw and final (Quality Assured/Quality Controlled) benthic and water quality data, accessible and responsive to inquiries from the HCWRS.

b) EPC will provide an annual water quality summary, in an electronic format, to the HCWRS. This will be provided not later than the first quarter following the end of the previous water year.

c) EPC will provide an annual benthic and sediments analysis, in an electronic format, to the HCWRS. This will be provided not later than the second quarter following the closure of the fall sampling season.

d) EPC will provide a quarterly summary of monitoring activities and data evaluation conducted in the course of implementing this agreement. This summary will be supported by documentation, including hours worked by employee and related wages and benefits and costs incurred (e.g. supplies, fuel, test kits) for the benefit of the COUNTY in compliance with the AGREEMENT. EPC will forward that summary to the HCWRS within 14 days of the ending of the previous quarter.

5. ADMINISTRATIVE MATTERS:

a) Concurrent with the development of the EPC regular two-year budget, EPC will develop a specific two-year budget to support the aforementioned EPC functions, in accordance with standard Hillsborough County procedures. This budget will be presented to the HCWRS for concurrence prior to presentation of the overall EPC final draft budget to the Management and Budget Department.

b) Upon execution of this Agreement, and every six (6) months thereafter, EPC and HCWRS staff will meet to review and reconcile issues concerning deliverables, services, supporting documentation, or expenditures.

c) As consideration for EPC's aforementioned activities, the COUNTY, through the mechanism of an interdepartmental transfer, shall fund the EPC in the amount of up to \$388,984 in FY 07. See Attachment 1 to this Interlocal Agreement for details of this amount. Actual expenditures will be reimbursed through the submittal of a quarterly Inter-Organizational Charge (IOC) up to the approved budgeted amount for work done for the benefit of the SYSTEM. Should funding

requirements exceed the current approved amounts, the EPC and HCWRS will seek approval from the EPC Board and the BOCC for the necessary additional funding.

d) EPC and COUNTY staff will review the implementation of the Agreement on a regularly scheduled basis to determine whether additional coordination might improve the effectiveness of the program.

e) At the mid-budget cycle reconciliation period of the current two-year COUNTY budget, and at the conclusion of each two-year COUNTY budget cycle, EPC and the COUNTY may reevaluate the terms of the Agreement to ensure the needs of the COUNTY are being satisfactorily met and that the EPC is being adequately compensated for services provided which benefit the continued operation and maintenance of the SYSTEM.

f) The initial term of this First Amended Agreement shall be for a period of two years and is thereafter automatically renewed each year unless written notice is provided at least 180 days prior to the termination of each renewal period by one of the parties hereto. Funding for FY08 and following years shall be addressed by modifications to this Agreement.

g) Modifications to this Agreement may be presented at any time and if mutually agreed upon, shall be placed in writing and executed by both parties.

h) Key personnel are as follows and any written notices should be provided via U.S. mail or hand deliver to the following:

i. COUNTY: Pam Greene, Hillsborough County Water Resource Services, 925 E. Twiggs Street, Tampa, FL, 33602, (813) 272-5977.

ii. EPC: Tony D'Aquila, Environmental Resources Mgmt. Division, 3629 Queen Palm Drive, Tampa, FL 33619, (813) 627-2600.

i) Each party hereto agrees that it shall be solely responsible for the negligent or wrongful acts of its respective officers, agents, and employees arising from the duties related to this Agreement. Notwithstanding any provision in this Agreement, all issues relating to liability, including but not limited to waivers or assumptions of liability, in this Agreement are subject to, may not be contrary to, and are limited by the sovereign immunity laws, including but not limited to section 768.28, Florida Statutes.

j) If any provision of this Agreement is found invalid or unenforceable by any court of competent jurisdiction, then such provision shall be null and void and shall be deemed separate from the remaining provisions of this Agreement which shall continue in full force and effect, provided the rights and obligations of the parties contained herein are not materially prejudiced and that the intentions of the parties can continue to be effected. This Agreement and the provisions contained herein shall be construed, controlled, and interpreted according to the laws of the State of Florida.

k) EPC agrees to comply with the requirements of all applicable state, federal, and local laws, rules, regulations, ordinances and Executive Orders prohibiting and/or relating to discrimination,

including but not limited to, Executive Order 11246, as amended and supplemented and 41 CFR § 60-1.4. All such applicable state, federal and local laws, rules, regulations, ordinances and Executive Orders, including but not limited to Executive Order 11246, as amended and supplemented, and 41 CFR § 60-1.4, are incorporated by reference herein.

l) This Agreement is subject to funding availability. In the event sufficient budget funds are not available for a new fiscal period, the COUNTY shall notify the EPC of such occurrence and the contract shall terminate on the last day of current fiscal period without penalty or expense to the COUNTY.

m) EPC shall allow public access to all documents, papers and letters made or received by the EPC in connection with this Agreement that are public records pursuant to Chapter 119, Florida Statutes.

n) EPC will keep adequate records and supporting documentation applicable to this contractual matter. Said records and documentation will be retained by EPC for a minimum of six (6) years from the date of termination of this Agreement. The COUNTY and its authorized agents shall have the right to audit, inspect and copy all such records and documentation as often as the COUNTY deems necessary during the period of this Agreement and during the period of six (6) years thereafter. The six (6) year time period will be extended until audit findings are issued if an audit is initiated during the six (6) year period. Such activity shall be conducted only during normal business hours. The COUNTY, during the period of time expressed by the preceding sentence, shall also have the right to obtain a copy of and otherwise inspect any audit made at the direction of EPC as concerns the aforesaid records and documentation.

IN WITNESS WHEREOF, the COUNTY and EPC have caused this Agreement to be executed as of the date first stated above.

ATTEST:

PAT FRANK
CLERK OF CIRCUIT COURT

HILLSBOROUGH COUNTY, FLORIDA
BOARD OF COUNTY COMMISSIONERS

By: _____
Deputy Clerk

By: _____
Chairman Board of County
Commissioners

(OFFICIAL SEAL)

ATTEST:

ENVIRONMENTAL PROTECTION
COMMISSION OF HILLSBOROUGH
COUNTY

By: _____
WITNESS

By: _____
EPC Chair

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

By: _____
EPC Counsel

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

By: _____
Assistant County Attorney

ATTACHMENT 1

**FY07 RECOMMENDED BUDGET
EPE01014 – Tampa Bay Water (40-040 SPT)**

Character 10 Personal Services

SOBJ	Description	Amount
1201	Reg. Pay, Classified Employee	\$217,894
1209	Employer Deferred Comp (IRS S457)	5,447
1210	Cafeteria Plan IRS Sec 125	10,944
2100	FICA/Medicare Taxes	17,923
2202	FL Retirement System	21,940
2300	Employee Medical Insurance	33,299
2301	Employee Life Insurance	245
2302	Disability Insurance	2,558
2400	Wrkr Comp Assessments	26,997
2900	Attrition Savings Adjustment	<u><-6,745></u>
Character 10 Subtotal		330,502

Character 30 Operating Expenditure/Expense

SOBJ	Description	Amount
3199	Other Professional Services	3,000
4000	Travel Reimbursement	1,966
4002	Auto Mileage Reimb.	70
4005	Travel & Meals	200
4010	Fleet Fuel and Oil	1,324
4011	Fleet Vehicle Rental	3,386
4100	Telecommunication Services	459
4107	Postage/Freight Services	262
4300	Electricity	13,033
4309	Utility Services	1,849
4499	Other Rental & Leases	70
4506	General Liab Ins Assessments	2,731
4600	Maintenance Building/Facility	2,405
4601	Maintenance Equipment	1,520
4609	Fleet Management Services	510
4700	Printing & Binding	125
4999	Other Miscellaneous Services	25
5100	Office Supplies/Expense	1,310
5101	Minor Equipment (<\$1,000)	262
5200	General Operating Supplies	3,931
5400	Memberships and Dues	328
5401	Books and Subscriptions	295
5404	Training/Educational Costs	<u>2,621</u>
Character 30 Subtotal		41,682

Character 60 Capital Outlay

6499	Other Equipment	<u>16,800</u>
Character 60 Subtotal		16,800

Index EPE 01014 Subtotal **\$ 388,894**



EPC Agenda Item Cover Sheet

Date of EPC Meeting: September 21, 2006

Subject: Request for authority to take appropriate legal action against Kings Food Mart

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

Division: Waste Management

Recommendation: Grant authority to pursue appropriate legal action and grant Executive Director settlement authority.

Brief Summary: Siham Jaber, Nader Jaber, Nina Jaber, Maher Jaber and Thaer Jaber, own property located at 509 West Columbus Drive, Tampa. Ryaid Suleiman owns and operates the retail gas station located on this property. The gas station contains two regulated 8,000 gallon underground storage tanks containing gasoline that are not in compliance with the EPC Act and the Storage Tank Rule Chapter 1-12, Rules of the EPC.

Background: The Executive Director issued a Citation of Violation and Order to Correct (Citation) on March 29, 2005 to Ryaid Suleiman, operator, and Siham Jaber, et al., owners, for violations of the EPC Storage Tank Rule Chapter 1-12. The violations included failure to display a current registration placard, failure to have liability insurance, failure to submit an Incident Notification Form (INF) due to a loss of vacuum on the tank interstice, failure to perform release detection, failure to perform the annual leak detector test, and failure to maintain records. No parties filed an appeal to the Citations and they became Final Orders of the Commission. EPC staff met with the operator's representative and subsequently some of the violations were resolved. On November 16, 2005 the facility was re-inspected and the following rule violations were noted: no Release Detection Response Level form, no Certificate of Financial Responsibility form, no monthly logs, keys were not available to inspect the dispensers and liners, no alternate procedure had been filed with the Florida Department of Environmental Protection to continue using vacuum monitoring for release detection. A meeting was scheduled with the operator on June 20, 2006. No one showed up for that meeting and despite several phone calls, no one has contacted EPC staff since that date. To date, EPC has received no evidence that the violations have been corrected. Therefore, EPC staff is requesting authority to take appropriated legal action to compel compliance with the EPC Act and Rules of the EPC.

List of Attachments: none



EPC Agenda Item Cover Sheet

Date of EPC Meeting: September 21, 2006

Subject: Apollo Beach Particulate Study

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

Division: Air Management

Recommendation:

Staff is asking the Board to accept this letter finalizing our one-year study of ambient dust concentrations in the Apollo Beach area.

Brief Summary:

In March 2005, in order to improve our knowledge of the ambient air in the Apollo Beach area, the EPC set up a PM2.5 speciation air monitor at the Apollo Beach Elementary School. This letter reports our findings regarding the investigation of the area, thereby closing out the Air Division's one-year study of small particles (PM2.5) in the Apollo Beach area. EPC maintains a monitor in the area.

Background:

In 2004, SOBAC contacted the Hillsborough County Health Department and the Environmental Protection Commission (EPC) to evaluate the air quality in the Apollo Beach area. The citizens expressed serious concerns about dust levels in the area and the BOCC approved twenty-five thousand dollars to be used to assist with laboratory analysis. The EPC agreed to set up a special monitor specifically designed to determine the makeup of the fine particles. The intent of the study was to determine the pollution origin and its potential to cause negative health effects.

The PM2.5 speciation monitoring study ran for one year, March 2005 to 2006, along with a PM2.5 continuous monitor that was already operating. The one-year study concluded that dust concentrations were well below the health-based standards and thus did not represent a health risk to the public. In fact, the study determined that the components and amounts of the fine particles are no different than fine particles at another monitoring site in Hillsborough County and in the neighboring Pinellas County.

List of Attachments: Copy of letter to SOBAC.

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.

August 28, 2006

Jeanette M. Doyle
SOBAC Public Affairs
Save Our Bays, Air, and Canals
903 Chipaway Dr.
Apollo Beach, FL 33572

Re: Final Report of Air Pollution Monitoring at Apollo Beach Elementary School

Dear Ms. Doyle,

On June 30th, 2004, Save Our Bays, Air, and Canals (SOBAC) contacted the Hillsborough County Health Department (HCHD) and the Environmental Protection Commission (EPC), to evaluate the air quality in South Hillsborough County, specifically the region around Apollo Beach. At that time the EPC agreed to conduct a one-year Apollo Beach Elementary School study. This letter is the final report to SOBAC on the monitoring data collected at the Apollo Beach Elementary School location.

In March 2005, a PM_{2.5} speciation monitor was installed at the Apollo Beach Elementary School. The EPC began measuring microscopic air particles (2.5 micrograms in diameter, and less) for one year, until March 2006. An additional PM_{2.5} continuous monitor ran at the same time as the PM_{2.5} speciation monitor. This continuous monitor will continue to measure concentrations of the particles at the school as part of the EPC's ongoing monitoring effort. If, at any time, this PM_{2.5} continuous monitor measures concentrations that are above EPA health benchmarks, normal EPC procedures will be followed and the public will be advised.

All objectives of the one year Apollo Beach Elementary School study have been met. They were to:

- 1) Measure PM_{2.5} particles at the Apollo Beach Elementary School for one year;
- 2) Compare the data collected at the school with the EPA health benchmark to determine if the particle concentration represents a health risk to the citizens in the Apollo Beach community (figure 1); and

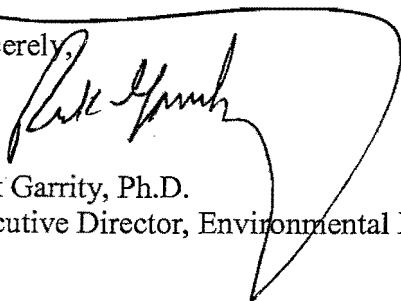
3) Compare the data collected at the school with the data collected at an identical PM_{2.5} speciation monitor operating at another site in Hillsborough County (Sydney), additionally, we have included a comparable monitoring data collected at Skyveiw, (figure 2), a monitoring site in Pinellas County. This comparison was to include examining not only how much fine dust was collected at Apollo Beach, but what made up the dust and thus, if the concentrations were high enough a follow up investigation on where it may have come from.

Figure 1 shows the comparison of monthly concentration averages of PM_{2.5} particles at the Apollo Beach Elementary school site with the other EPC PM_{2.5} speciation monitoring site (Sydney), from March 2005 through March 2006. Note that the concentration averages are so similar that the graph lines are on top of each other. Figure 2 shows three pie charts: Apollo Beach Elementary, Sydney, and the additional site, Skyveiw in Pinellas County. The pie charts indicate the break down of average total mass of PM_{2.5} particles into percent of chemicals in the particles, at the three sites, for the year.

Since the EPA health-based 24-hour standard of 65 ug/m³ is over three times higher than the average PM_{2.5} monthly concentrations found at both Hillsborough County sites, the data indicates that there should be no adverse health effects in these monitoring areas for PM_{2.5} particulates. Additionally, by comparing the Hillsborough County data to the data collected at the Pinellas County site it demonstrates that fine particulate emission components are homogeneous throughout the Tampa Bay Area. Therefore, we would conclude that there is nothing operating in the Apollo Beach area which is adversely affecting the fine particulate concentrations in our air.

Thank you for your interest. If you have any further questions, please contact me at 813-627-2600.

Sincerely,



Rick Garrity, Ph.D.
Executive Director, Environmental Protection Commission of Hillsborough County

Copy to: EPC Board Members:
EPC Chairman, Commissioner Ronda Storms:
EPC Vice-Chairman, Commissioner Brian Blair:
Commissioner Kathy Castor
Commissioner Ken Hagan
Commissioner Jim Norman
Commissioner Thomas Scott
Commissioner Mark Sharpe

Copy to: Dr. Douglas A. Holt: Director, Hillsborough County Health Department

March 2005 - March 2006 PM2.5 Monthly Averages of Twenty-four Hour Readings (ug/m3)

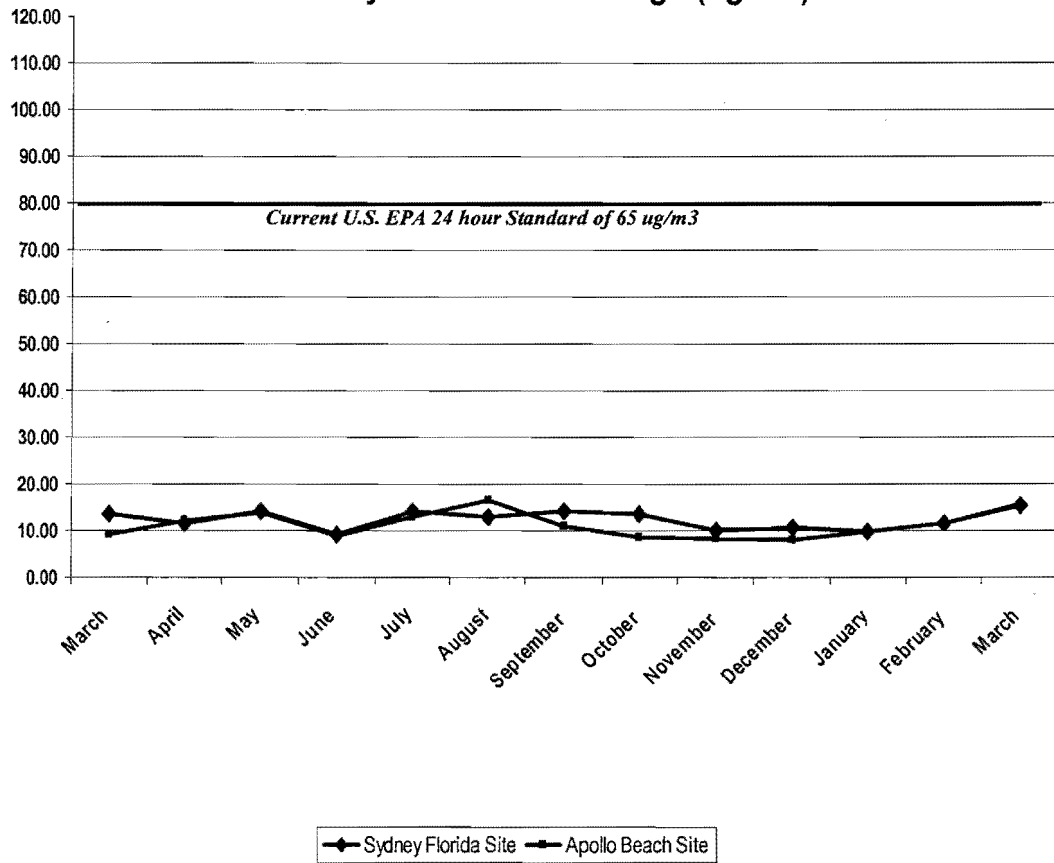
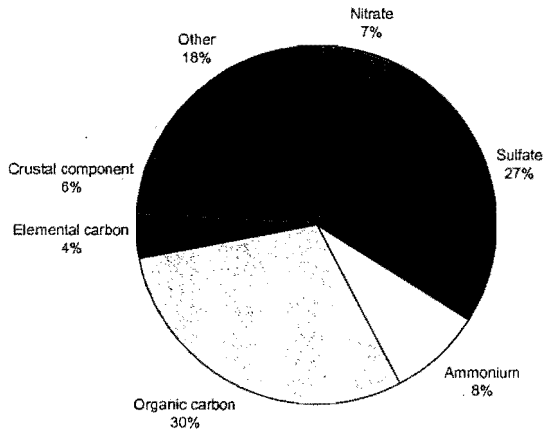
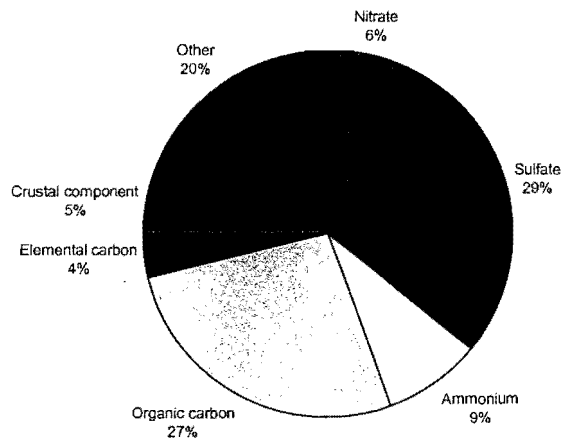


Figure 1. Comparison of PM 2.5 monthly averages at Apollo Beach and Sydney sites, as well as US EPA Standard. Both sites follow similar curves and concentrations, with February and March 2006 having almost identical concentrations.

Apollo Beach
AIRS Code NA (ROUTINE)
Date(s): 3/5/2005 - 2/28/2006
Average Concentration ($\mu\text{g}/\text{m}^3$)



Skyview
AIRS Code 121030026 POC 5 (ROUTINE)
Date(s): 3/5/2005 - 2/28/2006
Average Concentration ($\mu\text{g}/\text{m}^3$)



Sydney
AIRS Code 120573002 POC 5 (ROUTINE)
Date(s): 3/8/2005 - 3/3/2006
Average Concentration ($\mu\text{g}/\text{m}^3$)

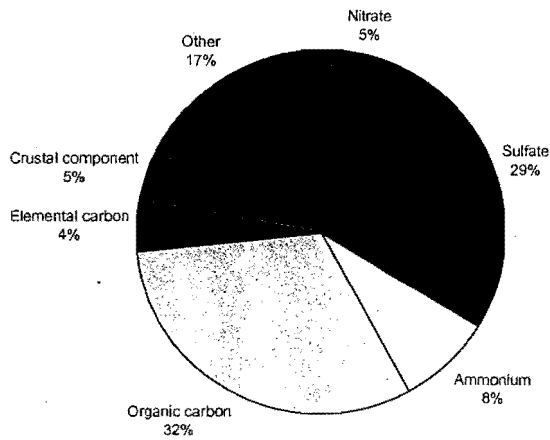


Figure 2. Components of PM 2.5 mass at the Apollo Beach, Skyview (Pinellas) and Sydney monitoring sites. Components of the mass at all three sites are similar.

THE ENVIRONMENTAL PROTECTION COMMISSION OF
HILLSBOROUGH COUNTY PRESENTS

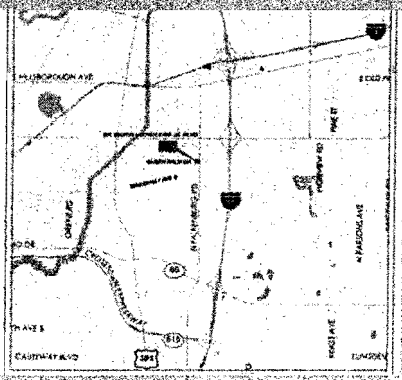
Environmental Summit 2006

WHO SHOULD ATTEND?

Homeowner's Associations
Environmental Groups
Civic Groups
Concerned Citizens
Business Interests

*Tuesday, October 10
6:00 p.m.*

Environmental Protection Commission
of Hillsborough County
Roger P. Stewart Center
3629 Queen Palm Drive
Tampa FL 33619



The Environmental Protection Commission of Hillsborough County wishes to invite you to its first annual Environmental Summit scheduled for Tuesday, October 10.

EPC's Executive Director, Rick Garrity, will present the newly published State of the Environment Report. We will open the floor to take questions, comments and concerns. This is your opportunity to speak first hand with EPC staff regarding our environment and what you feel we need to be doing to safeguard it for future generations.

If you are concerned about the fragile environment in our fast growing community, you will want to attend. Learn about the challenges we face and the accomplishments we've made as a community in preserving our natural resources in Hillsborough County.



*For additional information, please contact Barbara Motte
at (813) 627-2600, extension 1008.*



EPC Agenda Item Cover Sheet

Date of EPC Meeting: September 21, 2006

Subject: Pollution Recovery Fund Eligibility Criteria

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

Division: Legal Department

Recommendation: Informational report and discussion by the Commission.

Brief Summary: At the EPC Board meeting dated August 17, 2006, the Commission requested that staff bring back a discussion of what the Pollution Recovery Fund (PRF) can be used for. The Commission requested the presentation to discuss the possibilities of expanding the use of the fund. The PRF eligibility criteria are established by the Legislature in the EPC Act and is further expanded upon in Chapter 1-9, Rules of the EPC. Any expansion of the uses for the fund would require an amendment to the EPC Legislative Act.

Background: Each year the EPC staff and the Citizens Environmental Advisory Committee review approximately a dozen projects that are seeking funding from the Pollution Recovery Fund (PRF). Based on statutory and rule criteria, the projects generally must alleviate pollution or have an environmental educational aspect to them. These projects are funded by money the EPC collects through settlement or litigation of environmental violations. At the EPC Board meeting on August 17, 2006, the Commission requested that staff bring back a discussion of what the EPC's Pollution Recovery Fund can be used for. The Commission requested the presentation to discuss the possibilities of expanding the use of the fund.

The PRF eligibility criteria were established by a special act of the Legislature known as the Hillsborough County Environmental Protection Act, Chapter 84-446, Laws of Florida (EPC Act) and the PRF is further implemented by Chapter 1-9, Rules of the EPC. The EPC Act was first established in 1967 and has been amended approximately five times, the last amendment occurring in 1984. The PRF was created in 1973 through an amendment to the EPC Act in Chapter 73-496, Laws of Florida. The current EPC Act provides as follows regarding the PRF:

EPC Act, Section 19(5).

There is hereby created a pollution recovery fund which is to be supervised and used by the commission to restore polluted areas of the county, as defined by the commission, to the condition they were in before pollution occurred, to mitigate the effects of pollution, or to otherwise enhance pollution control activities within the county. The fund shall consist of all moneys, excluding costs and expenses, recovered by the commission or director in an action against any person who has polluted or engaged in activity in violation of this act or any activity tending to pollute the air, soil, or water of the county. The fund moneys shall be disbursed first to pay all amounts necessary to restore or mitigate the respective polluted areas which were the subjects of commission action, where such restoration or mitigation could

not be obtained from the violator. Any moneys remaining in the fund shall then be used by the commission, as it sees fit, to pay for any work needed to restore or mitigate areas which require more money than the commission was able to obtain by court action or otherwise to restore or mitigate areas in which the commission brought enforcement action but was unable to recover any moneys from the alleged violators, or to otherwise enhance pollution control activities within the county. An amount up to 10 percent of the average annual balance of the fund may be disbursed for monitoring past restoration or mitigation. An amount up to 50 percent of the annually collected funds may be disbursed to the commission's Artificial Reef Program.

ELIGIBILITY

Thus, the EPC Act provides a two tiered approach to determining eligibility. First the Commission must establish that a project is designed to accomplish one of the following within Hillsborough County:

1. Restore polluted areas of the county to the condition they were in before pollution occurred.
2. Mitigate the effects of pollution.
3. Otherwise enhance pollution control activities within the county.

PRIORITY

Once a proposed project is proven to meet one of the above criteria, they are then prioritized for funding under the three categories below, which are also laid out in the rule:

1. "Restore or mitigate the respective polluted areas which were the subjects of commission [enforcement] action, where such restoration or mitigation could not be obtained from the violator."
- 2a. "Any work needed to restore or mitigate areas which require more money than the commission was able to obtain by court action or otherwise to restore or mitigate areas in which the commission brought enforcement action but was unable to recover any moneys from the alleged violators"
- 2b. "To otherwise enhance pollution control activities within the county."

Thus, any project that is designed to remediate pollution that could not be resolved through litigation has priority. Once those are funded, then items 2a and 2b are co-equals as a second priority. Item 2b is a "catch-all" provision that allows any eligible pollution control activity to be ranked after unresolved enforcement cases.

The priority ranking was detailed by the Commission in Section 1-9.05(c) and (d), as follows:

- c.(i) polluted areas which were the subject of Commission action or enforcement action but for which restoration or mitigation could not be obtained from the responsible party;
- (ii) polluted areas for which adequate restoration or mitigation could not be obtained through enforcement but for which monies were contributed to the fund;
- (iii) polluted areas for which adequate restoration or mitigation could not be obtained through enforcement and for which no monies were contributed to the fund; and

(iv) polluted areas for which pollution control activities are designed to prevent, minimize, mitigate or correct the effects of the pollution, or to determine the extent of the effects of or the primary causes of the pollution so that restoration or mitigation can occur.

d. The Commission may assign, certain amounts of the fund to be used for educational programs designed to alleviate existing pollution. However, the Commission shall insure that there is always, except in emergencies, a reasonable balance to cover unexpected or emergency situations.

The rule includes all the lists detailed by the Act, but then clarifies that funds can be used for education purposes and that some funds must be held in reserve for undefined "emergency situations."

OTHER CONSIDERATIONS

The EPC Act also addresses additional uses for PRF moneys. The Act allows **ten percent of the average annual balance of the fund to be disbursed for monitoring past restoration or mitigation.** Section 1-9.04, Rules of the EPC clarifies that this 10% can be included in the EPC budget and used by the EPC (thus not an applicant) to monitor past restoration and mitigation.

More importantly, **fifty percent of the annually collected funds may be disbursed to the Commission's Artificial Reef Program.** This is a highly successful project that has created many artificial reefs throughout Tampa Bay, improving estuarine habitat, utilizing clean construction debris that otherwise would go to a landfill (e.g. – old bridge concrete pilings), and creating new well-marked fishing and diving locations to contribute to the local economy.

Chapter 1-9, Rules of the EPC interprets the EPC Act and clarifies guidelines for PRF applications and eligibility. The rule, created and adopted by the Commission, provides in its intent clause section 1-9.01, the following:

It is the intent of the Commission to use the Pollution Recovery Fund for the restoration of polluted areas, the mitigation of the effects of pollution and to otherwise enhance pollution control activities within the county. It is the Commission's intent that the monies be used so as to accomplish an improvement in the purity of the waters, soils or air of the county consistent with public health and enjoyment thereof, and the propagation and protection of wildlife, birds, game, fish and other aquatic life. Where the monies are not needed to restore polluted areas, they shall be used to enhance pollution control activities which will avoid or minimize future pollution problems within the County.

CONCLUSION

The Act and the Rule provide a detailed list of what projects are eligible and then prioritizes them. The EPC staff has used this guidance to recommend disbursement of PRF monies. Any expansion of the uses of the fund would, at a minimum, take an amendment to the EPC Act and most likely, the EPC Rule. The EPC staff does not have a specific recommendation, as the Commission request in August 2006 was merely to bring back an analysis how the money can currently be distributed.

List of Attachments: None



EPC Agenda Item Cover Sheet

Date of EPC Meeting: September 21, 2006

Subject: Cypress Creek Town Center Environmental Resource Permit

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

Division: Legal Department

Recommendation: To be presented during the Board meeting.

Brief Summary: Due to concerns about the potential for pollution of Cypress Creek and the Hillsborough River, at the BOCC Land Use Board dated March 22, 2005, the BOCC directed the County and the EPC Water Resource Teams to monitor the Environmental Resource Permit (ERP) for the Cypress Creek Town Center in Pasco County, just north of the County line. The Southwest Florida Water Management District (SWFWMD) issued a notice of proposed agency action that the EPC received on September 1, 2006. The proposed ERP governs wetland and stormwater permitting for the large commercial and residential development. EPC and County staff are reviewing the application, and the EPC staff will provide an analysis. If there are substantial flaws with the proposed permit, a permit challenge under Chapter 120, Florida Statutes can be filed by September 22, 2006.

Background: Cypress Creek Town Center, is proposed to be located near the intersection of I-75 and State Road 56 in Pasco County, Florida. The developers plan to create a 404 acre project, with about 249 acres of mitigation area, and the permanent destruction of 67 acres of wetland. The proposed development would include a regional mall and other commercial space, hotels, offices, and a residential community.

Due to concerns about the potential for pollution of Cypress Creek and the Hillsborough River, portions of which are deemed an Outstanding Florida Water (OFW), on March 22, 2005 the BOCC directed the County and the EPC Water Resource Teams to monitor the Environmental Resource Permit (ERP) for the Cypress Creek Town Center in Pasco County, just north of the County line. On August 31, 2006, the Southwest Florida Water Management District (SWFWMD) issued a notice of proposed agency action to approve the Cypress Creek Towncenter ERP applied for by Pasco 54 Ltd. and Pasco Ranch, Inc. The Governing Board will meet on Sept. 26, 2006 at the Tampa Service Office on Hwy. 301 to vote on the matter. The EPC received the notice on September 1, 2006. If there are substantial flaws with the proposed permit, a permit challenge under Chapter 120, Florida Statutes can be filed with the SWFWMD by September 22, 2006.

The proposed ERP governs wetland and stormwater permitting for the large commercial and residential development. EPC and County staff are reviewing the application, and the EPC staff will provide an analysis and recommendation at the Board meeting.

List of Attachments: None



EPC Agenda Item Cover Sheet

Date of EPC Meeting: September 21, 2006

Subject: Pollution Recovery Fund Annual Project Approvals

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

Division: Environmental Resources Management

Recommendation: Concur with EPC Staff and CEAC and approve the funding for and execution of agreements for 5 Pollution Recovery Fund (PRF) projects and deny 4 projects. Two additional applications were withdrawn by the applicants.

Brief Summary: The EPC staff and the Citizens Environmental Advisory Committee (CEAC) have been reviewing eleven 2006 Pollution Recovery Fund applications since May 2006. After extensive review, both the staff and CEAC recommend approving 5 of the projects as described in the attached project summary. Four of the remaining projects are recommended for denial. These projects are funded through money the EPC collects through settlement or litigation of environmental violations.

Background: EPC staff and CEAC have reviewed the Calendar Year 2006 Pollution Recovery Fund project applications. Each application is reviewed for legal sufficiency (compliance with the EPC Act and Chapter 1-9 Rules of the EPC), technical merit (can the project get permitted and is it based on sound scientific knowledge) and financial requirements. A total of eleven applications were received this year, but two were withdrawn, thus only nine are currently under consideration for the Commission. Both EPC staff and CEAC are recommending approval of 5 projects and denial of 4 of the projects as described in the attached project summary list. These projects are funded through money the EPC collects through settlement or litigation of environmental violations.

In summary, EPC staff requests that the Board:

- 1) Approve 5 listed projects as denoted by the check mark (see attached).
- 2) Deny 4 listed projects as denoted by the "X" (see attached).

It should also be noted that last year the EPC Board authorized the Chair, on a continuing basis, to execute the approved PRF agreements in substantially the same format as the form PRF Agreement drafted by the Legal Department and that the EPC Chair, after staff consultation, may execute future amendments that involve non-material changes or reasonable deadline extensions as may be necessary from time to time. The minor amendments will not involve changes in funding.

List of Attachments:

- 1) 2006 Pollution Recovery Fund Project Summary
- 2) 2006 Project Requests for Pollution Recovery Fund

2006 Pollution Recovery Fund Project Summary

Total PRF Funds <u>Available</u> for Projects:	\$ 732,129 (As of 8/31/06)
Total PRF Funds <u>Approved</u> for Projects:	\$ 245,906
Total Remaining <u>Available</u> for Projects:	\$ 486,223

5 Projects Recommended for Approval by both EPC / CEAC
4 Projects Recommended for Denial by both EPC / CEAC
2 Project Applications Withdrawn

- ✓ **Oyster Reef Shoreline Stabilization and Enhancement**
 - EPC Staff & CEAC Recommend Approval for \$30,000 (CEAC Vote 14-0-0)
 - A two year project designed to stabilize southeastern shoreline of MacDill AFB
 - Oyster bar creation will promote sediment accretion and fisheries habitat

- ✓ **Nitrogen Emission/Deposition Ratios for Air Pollution Sources**
 - EPC Staff & CEAC Recommend Approval for \$40,906 (CEAC Vote 13-0-1)
 - Determine ratios of nitrogen emitted vs. nitrogen deposited in Tampa Bay
 - Identify sources/source categories that have greatest impact on bay water quality

- ✓ **Lake Thonotosassa Muck Removal Feasibility Assessment**
 - EPC Staff & CEAC Recommend Approval for \$75,000 (CEAC Vote 8-5-0)
 - Part of a multi-agency technical working group evaluating restoration potential on the lake
 - PRF Funding will be used for initial assessments of lead levels in the lake and its sediments

- ✓ **Erosion Control / Oyster Bar Habitat Creation Project, Phase I**
 - EPC Staff & CEAC Recommend Approval for \$75,000 (CEAC Vote 12-0-2)
 - Project will help stabilize eroding shoreline critical to bird nesting habitat in Tampa Bay
 - Oyster bars will provide habitat and feeding opportunities for birds and fish on Alafia Banks

- ✓ **Tank Removal**
 - EPC Staff & CEAC Recommend Approval for \$25,000 (CEAC Vote 12-2-0)
 - Project will remove underground storage tanks per EPC enforcement action
 - Eliminates potential source of groundwater and/or soil contamination
 - Voluntary lien on property will reimburse PRF upon future sale of property

X In Situ Phosphorous Stabilization

- EPC Staff & CEAC Recommend Denial (\$40,000) (CEAC Vote 14-0-0)
- Lack of data demonstrating actual environmental harm exists
- Not proven to be the best available technology to address the issue
- Uncertain whether applicant could secure chemicals necessary to achieve goals

X Forest Hills Urban Wildlife Habitat and Treatment Wetland

- EPC Staff & CEAC Recommend Denial (\$100,291) (CEAC Vote 14-0-0)
- Lack of written authorization to conduct project on City of Tampa property
- Most of the requested funding (95%) was for salaries not project implementation

X Wilson Lakes Neighborhood Association Stormwater Pollution Mitigation

- EPC Staff & CEAC Recommend Denial (\$94,500) (CEAC Vote 14-0-0)
- Ownership of the project location is still in question (private, FDOT/Utility ROW)
- Lack of detailed engineering specific to proposed application of chosen technology
- Confusion over target pollutants and consistency with lake management plan

X Keep Our Waters Beautiful

- EPC Staff & CEAC Recommend Denial (\$128,709.35) (CEAC Vote 13-0-1)
- Lack of site-dependent engineering specifics (flow rates, target pollutants)
- EPC staff and CEAC data from similar, previously approved project
- High cost/benefit ratio for chosen technology would yield only one unit installation

2006 PROJECT REQUESTS FOR POLLUTION RECOVERY FUND
(AMENDED)

1. OYSTER REEF SHORELINE STABILIZATION AND ENHANCEMENT

APPLICANT: U.S. Air Force at MacDill Air Force Base

This 2 year project will demonstrate that shoreline erosion can be halted through the installation of concrete oyster domes to create an off-shore oyster reef (to reduce wave energy). The off-shore reef allows the accumulation of sediment behind the reef. As sediment builds up, the area can be planted with marsh grass. Over time, through succession, the marsh area will be replaced by mangroves which further stabilize the shoreline.

PRF Request: \$30,000

Total Cost: \$ 60,000/annual

EPC Staff Recommendation: Approve

Staff feels this is a worthy project which utilizes proven techniques to help arrest shoreline erosion while at the same time creating valuable oyster / fisheries habitat in Hillsborough Bay.

Project Manager: Jason Kirkpatrick

Phone: 813-828-0459

CEAC Recommendation: Approval: 14-0-0

2. IN SITU PHOSPHOROUS STABILIZATION: EFFECTS OF CO-BLENDING OF MAGNESIUM BY-PRODUCTS ON PHOSPHATIC CLAY TAILINGS AND MANURE-IMPACTED SOILS

APPLICANT: University of Florida, IFAS

This 3 year project will address the use of water treatment residuals (WTR's) to be used for mined land treatment (as well as waste products of calcium oxide, magnesium oxide and lime-stabilized sludge) to improve soil structure, water infiltration, plant root growth and general soil productivity and quality. In addition to phosphorus immobilization, heavy metals present in the soil will be immobilized. The manure-impacted soils will be treated with magnesium oxide, calcium oxide and calcium sulfate to achieve the overall goal of soil quality.

PRF Request: \$40,000/year

Total Cost: \$390,000

EPC Staff Recommendation: Deny

Staff recommends denial based on a lack of data demonstrating that actual environmental harm exists. The highly experimental nature of the project as presented was not shown to be the best available management practice nor was it determined whether the applicant would be able to secure the necessary chemicals in sufficient quantity to achieve the project's objectives.

Project Manager: Craig Stanley, Ph.D.

Phone: 813-633-4117

CEAC Recommendation: Deny: 14-0-0

3. NITROGEN EMISSION/DEPOSITION RATIOS FOR AIR POLLUTION SOURCES THAT CONTRIBUTE TO THE NITROGEN LOADING OF TAMPA BAY

APPLICANT: University of South Florida / College of Public Health

This 1 year project proposes to develop conversion factors for major Hillsborough County sources and source categories that relate tons of nitrogen emitted to tons of nitrogen deposited in Tampa Bay. This will not only aid bay managers in assessing nitrogen emission reductions made in recent years, but will reveal which sources/source categories, if controlled, would affect most the bay water quality.

PRF Request: \$40,906

Total Cost: \$40,906

EPC Staff Recommendation: Approve

Staff feels this project will take the existing information gathered by the BRACE studies to the next logical level and further our understanding of atmospheric deposition of nitrogen, its sources, and its effects on the Tampa Bay watershed and bay water quality.

Project Manager: Noreen Poor, Ph.D.

Phone: 813-974-8144

CEAC Recommendation: Approval: 13-0-1

4. LAKE THONOTOSASSA MUCK REMOVAL FEASIBILITY ASSESSMENT
APPLICANT: EPC of Hillsborough County/ERM Division

This 1 year project will assess the costs, benefits and feasibility of removing the nutrient-rich layer of organic muck that is currently present on the lake bottom. It will focus on identifying concentrations and potential sources of lead in lake-bottom sediments. Because the U.S. EPA has recently finalized a TMDL for lead in Lake Thonotosassa, such an assessment will be an essential first step in the process leading up to the physical removal or chemical inactivation of the muck layer, which may be necessary for long-term lake restoration.

PRF Request: \$75,000

Total Cost: \$75,000

EPC Staff Recommendation: Approve

Project Manager: Bob Stetler

Phone: 813-627-2600x1088

CEAC Recommendation: Approval: 8-5-0

Staff recommends approval to pursue this cooperative effort with the Southwest Florida Water Management District (SWFWMD) and a multi-agency technical working group to address possible lead contamination issues in the lake. PRF money would be primarily earmarked for contracting out the lead-level assessment tasks.

5. FOREST HILLS URBAN WILDLIFE HABITAT AND TREATMENT WETLAND
APPLICANT: Blue Sink/Curiosity Creek Coalition

This 1 year project will involve lowering the surface water level in Blue Sink, which used to be the terminus point for the flows from Curiosity Creek and Ewanowski Spring. By keeping the surface water level in Blue Sink down the City of Tampa can insure that the number of occasions during which highly contaminated surface water flows from Curiosity Creek into the underlying Floridan Aquifer will be limited to only a few storm events. The project will alleviate the pollution in F100C, a stormwater detention pond, by using a treatment wetland that will replace the existing assemblage of predominantly nuisance vegetation with Florida native vegetation.

PRF Request: \$100,291

Total Cost: \$105,291

EPC Staff Recommendation: Deny

Project Manager: Peter Schreuder

Phone: 813-932-8844

CEAC Recommendation: Deny: 14-0-0

Staff feels this project has a number of challenges to overcome. The applicant has been requested to provide written authorization from the City of Tampa supporting the project and granting use of the City's property, but the City has not yet granted such authorization. There is an existing ERP permit for the site in question which would, at the very least, require modification prior to commencement of the project. As much as 95% of the funding is slated for personnel which would leave little left for actual implementation of the project.

6. HILLSBOROUGH COUNTY SEAGRASS AQUACULTURE CENTER
APPLICANT: MacDonald Training Center, Inc.

This 1year project will serve to increase community involvement in the environment through the participation of Respect of Florida and MacDonald Training Center, Inc. in this initiative. The site has historically supported seagrass and oyster reefs. Placement of oyster reefs will direct water flow through the seagrass restoration area and increase fish populations along with essential fish habitat. Cost effectiveness for this project is addressed through the participation of MacDonald Training Center, Inc. The sediment bags will be sewn at a per piece rate, resulting in a cost-savings of \$2.00 - \$3.00 per bag when compared to professional manufacturing prices.

PRF Request: \$165,000 (Application Withdrawn)

Total Cost: \$765,000

Project Manager: Marianne Monoc

Phone: 813-870-1300 ext. 283

7. **WILSON LAKES NEIGHBORHOOD ASSOCIATION (WLNA) STORMWATER POLLUTION MITIGATION**
APPLICANT: Wilson Lakes Neighborhood Association

This (indefinite length of time) project will provide a pre-treatment of water which could help to reduce the amount of pollutants through a Stormwater Treatment System. The project location is Little Lake Wilson and Lake Wilson which are located in the Lake Ruth System of the RBC Watershed. When the FL DOT widened Dale Mabry Highway in the early 1990's, a 36" drainpipe was installed to handle runoff. This pipe was positioned to empty directly into Little Lake Wilson. The pipe collects stormwater from a large surrounding area that includes gas stations, plant nurseries and most notably a horse farm.

PRF Request: \$94,500

Project Manager: Mike Coffey, Co-President

Total Cost: \$94,500

Phone: 813-948-3007

EPC Staff Recommendation: Deny

CEAC Recommendation: Deny: 14-0-0

Staff feels this project has promise, however, there are still issues that need to be addressed prior to approving the project as proposed. Ownership of the project site is still in question (private property vs. FDOT / County utility easement). Engineering specific to this project site and the proposed CDS unit (flow rates, stormwater discharge rates, target pollutants) was not clearly defined. Staff would like to work with the applicants to address these issues and perhaps revisit this project in the coming cycle.

8. **EROSION CONTROL/OYSTERBAR HABITAT CREATION PROJECT, PHASE 1**
APPLICANT: National Audubon Society (dba) Audubon of Florida

This one year project provides multiple practical benefits; erosion control; water filtration; TSS reduction; restoration of estuarine habitat mosaic; enhancement of essential fishery habitat (EFH); construction of foraging habitat for listed and migratory shorebirds; other taxa; horseshoe crabs nesting habitat; and diamondback terrapin refugia. Oysters occur naturally in Hillsborough Bay and are annually reproductive so that population is not veliger limited; veliger attachment substrate is limited due to the historic removal of oyster shell from Hillsborough Bay; oyster reef construction is practicable, particularly in the shallow water surrounding the Sanctuary. The reef will provide water resource management benefits cost-effectively through ongoing, long-term water quality improvement benefits without future development, operation, maintenance and replacement (DOM&R) costs.

PRF Request: \$75,000 (Amended)

Project Manager: Ann Hodgson, Ph.D., P.W.S.

Total Cost: \$294,400

Phone: 813-623-6826

EPC Staff Recommendation: Approve

CEAC Recommendation: Approval: 12-0-2

Staff recommends approval of the amended application which limits the project scope to erosion control and oyster bar creation at the eastern end of the Richard T. Paul Alafia Bank Bird Sanctuary.

9. **KEEP OUR WATERS BEAUTIFUL**
APPLICANT: Keep Hillsborough County Beautiful

This 1 year project is proposed by Keep Hillsborough County Beautiful (KHCB) which was formed in 1992 by a group of concerned citizens who saw that litter was becoming a problem in their community. Keep Our Waters Beautiful is a new addition under the litter control program. The litter control program is comprised of various distinct projects, such as: **Adopt-A-Road, Adopt-A-Shoreline, Great American Cleanup and Florida Coastal Cleanup**, Because KHCB is well versed with pollution remediation, the next step, helping to provide more long term pollution prevention measures, is a logical progression for KHCB.

PRF Request: \$128,709.35

Project Manager: Christine Commerce

Total Cost: \$128,709.35

Phone: 813-960-5121

EPC Staff Recommendation: Deny

CEAC Recommendation: Deny: 13-0-1

Staff recommends denial based on a lack of data related to the WARM/SOCs project previously approved in 2005. Since this project proposes very similar technology, it would seem prudent to wait for results from that project (due in December 2006) prior to funding this project. Staff also has concerns related to the project cost relative to other similar projects and an apparent lack of site-dependent engineering specifics (Flow rates, best available technology, target pollutants).

10. **TANK REMOVAL**
APPLICANT: Ramco Service Center, Inc.

This 1 year project is proposed to remove underground petroleum storage tanks located at 401 S. Collins Street, Plant City, FL 33566. The applicant is unable to remove the tanks and therefore alleviate any future environmental harm due to an accident that has left him financially unable to comply with EPC enforcement actions. The applicant has volunteered to place a lien against the property in the amount of PRF funds requested, thus allowing the EPC to be reimbursed upon any sale of the property.

PRF Request: \$25,000

Project Manager: Clyde Seudath, Vice President

Total Cost: \$25,000

Phone: 813-681-8817

EPC Staff Recommendation: Approve **CEAC Recommendation: Approval: 12-2-0**

Staff recommends approval of this project. This project would allow EPC staff to determine whether a potential pollution source exists on site and get the out-of-service tanks pulled without the need for lengthy litigation. If contamination is present, EPC staff will provide the applicant with technical assistance in applying for existing state funding to complete the cleanup process.



EPC Agenda Item Cover Sheet

Date of EPC Meeting: Sept. 21, 2006

Subject: Draft EPC Seagrass Management Plan

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

Division: Environmental Resources Management (ERM)

Recommendation: This is an information item only. No Board action is requested.

Brief Summary: EPC staff is working with the Tampa Bay Estuary Program and the Southwest Florida Seagrass Working Group to develop a management plan that is focused on the issues affecting seagrass resources in Hillsborough County waters. In addition to budgeted EPC funds, plan development was supported by grant funds provided by the National Fish and Wildlife Foundation and the Pinellas County Environmental Fund.

Background:

The draft plan includes:

- background information on the importance of seagrass management, and the seven seagrass management areas that EPC staff propose to address (Sect. 2);
- an overview of local seagrass management issues (Sect. 3);
- a proposed prioritization system for the management areas (Sect. 4); and
- a set of seven proposed management actions (Sect. 5).

The proposed management actions, which for the sake of regional consistency are based on the TBEP's Tampa Bay action plan, include:

- managing nitrogen loads to Tampa Bay
- monitoring seagrass condition and species composition;
- address propeller scarring and seagrass restoration;
- encouraging greater on-water enforcement of environmental laws and rules;
- assessing effects of wave energy;
- addressing impacts of dredging and dredge material management;
- continuing to track seagrass status and trends, and evaluating priority management issues.

Each of the actions proposed in the plan can be implemented by EPC staff with resources that are anticipated to be available during the 2007 and 2008 fiscal years. If Action 4 (Encourage greater on-water enforcement in Hillsborough County's coastal waters) is also adopted by the County, or by State enforcement agencies, additional resources would presumably be needed by those organizations to provide for the additional law enforcement personnel.

List of Attachments: None (a summary handout will be provided at the Sept. 21 Board meeting)