

**ENVIRONMENTAL PROTECTION COMMISSION  
OF HILLSBOROUGH COUNTY**

**COMMISSIONER'S BOARD ROOM**

**DECEMBER 14, 2006**

**1:30 PM**

**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: September 26, 2006 2
  - B. Monthly Activity Reports 6
  - C. Pollution Recovery Trust Fund Report 39
  - D. Gardinier Settlement Trust Fund Report 40
  - E. Legal Case Summary 41
  - F. Grant Authority to Pursue Appropriate Legal Action Against:
    - 1. Hendry Corporation 57
    - 2. Phillips & Munzel Oil Co. & Shell Oil Company 58
    - 3. Shree Krishna, Inc. and Brooks Property, Inc. 59
  - G. Establish Date for Public Hearing to Amend Chapter 1-3 (Air Pollution Rule) 60
- IV. EXECUTIVE DIRECTOR'S REPORT**  
Report – First Annual Environmental Summit
- V. LEGAL DEPARTMENT**  
Discussion – Citizens Environmental Advisory Committee (CEAC) – Appointments 61
- VI. ADMINISTRATION**  
Discussion – Establish EPC Legal Contingency Fund 62
- VII. WETLANDS MANAGEMENT DIVISION**  
Discussion – Tampa Port Authority Delegation 63
- VIII. ENVIRONMENTAL RESOURCES MANAGEMENT DIVISION**  
Report- Lower Hillsborough River MFL 64

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

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SEPTEMBER 26, 2006 - ENVIRONMENTAL PROTECTION COMMISSION - DRAFT MINUTES

The Environmental Protection Commission (EPC), Hillsborough County, Florida, met in Regular Meeting, scheduled for Tuesday, September 26, 2006, at 9:30 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, Ken Hagan, Jim Norman, Thomas Scott, and Mark Sharpe.

Chairman Storms called the meeting to order at 9:50 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 an abbreviated presentation on Item IV.A., agency goals and objectives; and deferred Items VI.A., pollution recovery fund (PRF) eligibility criteria; VI.B., Cypress Creek town center environmental resources permit; and VII.B., draft EPC seagrass management plan. **Commissioner Scott moved the changes, seconded by Commissioner Norman, and carried seven to zero.**

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 said CEAC completed review of applications for PRF grants and submitted recommendations provided in background material. Grant awards totaled \$245,906, leaving a PRF balance of approximately \$486,000. EPC and CEAC agreed on the recommendations. Several applications not recommended for funding showed promise and needed more definition to warrant consideration next year.

Commissioner Blair recalled a project to test waves in the bay and asked if EPC received a report to show what taxpayers received for their money. Mr. Jellerson said each project contract required a report to CEAC and EPC staff on the success and challenges of the project, so funds could be focused most effectively on future projects. Dr. Garrity said staff would present a summary evaluation of past projects in December 2006.

CONSENT AGENDA

- A. Approval of minutes: August 17, 2006, and September 7, 2006.
- . Monthly activity reports.

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- C. PRF report.
- D. Gardinier Settlement Trust Fund report.
- E. Legal case summary.
- F. Ford Amphitheatre status report.
- G. Approve amended interlocal agreement between Hillsborough County and EPC.
- H. Grant authority to pursue appropriate legal action against Ryaid Suleiman, Siham Jabber et al. (storage tanks).
- I. Apollo Beach particulate study.

**Commissioner Norman moved the Consent Agenda, seconded by Commissioner Scott, and carried seven to zero.**

#### EXECUTIVE DIRECTOR'S REPORT

Presentation on Agency Goals and Objectives - Dr. Garrity distributed and utilized a slide presentation to review achievements and challenges for goals and objectives. Regarding the hurricane plan, Chairman Storms suggested EPC have a program similar to Know Your Role that the County Administrator recently adopted. Dr. Garrity said that had been completed. Chairman Storms encouraged EPC to work with Ms. Shelley Blood, Director, Neighborhood Relations Office, and use e-mail for new information and/or send invitations for neighborhood summits.

Announcement of Dedication of Roger P. Stewart Center, October 19, 2006 - Dr. Garrity said EPC would not meet in October 2006; however, at that same time, the Roger P. Stewart Center would be dedicated. Tours of the facility and refreshments would be offered.

Chairman Storms asked the cut-off for permitting petroleum tanks. Mr. Hooshang Boostani, Director, EPC Waste Management Division, said no permitting was involved. Gas stations registered with the Department of Environmental Protection (DEP); petroleum terminals required air and DEP permits.

Announcement of First Annual Environmental Summit, October 10, 2006 - Dr. Garrity said the summit was the first EPC had done, displayed an invitation, said feedback had been positive, and suggested homeowner associations, environmental groups, civic groups, citizens concerned about environmental issues, and businesses attend. Staff planned to solicit input from attendees to see on what issues they thought EPC should work. Chairman Storms suggested discretion, so as not to mislead people into thinking they could change EPC

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goals and objectives, and suggested EPC consider a nominal charge for the summit to cover the cost of materials and refreshments.

#### ADMINISTRATION

Evaluation of Executive Director - Mr. Tom Koulianos, Director, EPC Finance and Administration, presented the results of the completed evaluations. The behaviors category was an average of 4.81, and the accomplishment of goals was an average of 4.85, both on a scale of one to five. The fiscal year 2007 included a 2.5 percent increase for all EPC staff that received an evaluation of satisfactory or better. The current contract expired July 2008. EPC General Counsel Richard Tschantz advised Commissioner Scott the original contract was 4 years, to which there had been two, 2-year extensions. **Commissioner Scott moved to extend the contract by 2 years with the standard raise, 2.5 percent.** After passing the gavel to Vice Chairman Blair, **Chairman Storms seconded the motion.** Mr. Koulianos said that would extend the contract to June 2010 and asked that the effective date for salary be October 1, 2006. **Commissioner Scott agreed. The motion carried five to one; Commissioner Hagan voted no.** (Commissioner Castor was out of the room.)

#### LEGAL DEPARTMENT

PRF Eligibility Criteria Discussion - **Deferred to a subsequent meeting.**

Cypress Creek Town Center Environmental Resources Permit Discussion - **Deferred to a subsequent meeting.**

#### ENVIRONMENTAL RESOURCES MANAGEMENT DIVISION

PRF Annual Project Approvals - Mr. Tom Ash, EPC staff, said staff evaluated 11 PRF projects in 2006 and recommended approval of 5 projects and denial of 4 projects, as listed in agenda material, and in addition, requested approval for some housekeeping items. Chairman Storms called for public comment. Ms. Christine Commerce, Keep Hillsborough County Beautiful, distributed an application for funding, discussed items collected during the coastal cleanup project, perceived up to 70 percent of the trash came from drainage canals, and stated the application was for a baffle box to trap pollutants, trash, debris, and sediments before they reached the bay. The project had not been approved.

Chairman Storms asked why the project was denied. Mr. Ash said an active project was approved in 2005 for Save Our Canals Incorporated (SOC) and used similar yet simpler technology. Data on the project would come back in December 2006. If those type units worked, EPC would work with citizen groups

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to pursue that further. The technology proposed in the application submitted by Ms. Commerce was for one installation at \$128,000. The SOC program received funding for 39 baskets in inlets for \$41,000. **Commissioner Blair moved staff recommendation.** Ms. Commerce replied to queries from Commissioner Sharpe regarding the proposed project. Mr. Ash preferred to have data from the SOC project before considering different technology. **Commissioner Norman seconded the motion, which carried six to zero.** (Commissioner Castor was out of the room.)

Draft EPC Seagrass Management Plan - Deferred to a subsequent meeting.

There being no further business, the meeting was adjourned at 10:27 a.m.

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

ATTEST:  
PAT FRANK, CLERK

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

sd

MONTHLY ACTIVITIES REPORT  
AIR MANAGEMENT DIVISION  
September FY 2006

A. Public Outreach/Education Assistance:		
1. Phone Calls:		240
2. Literature Distributed:		<u>300</u>
3. Presentations:		<u>1</u>
4. Media Contacts:		<u>1</u>
5. Internet:		
6. Host/Sponsor Workshops, Meetings, Special Events		<u>1</u>
<hr/>		
B. Industrial Air Pollution Permitting		
1. Permit Applications Received (Counted by Number of Fees Received):		
a. Operating:		5
b. Construction:		<u>11</u>
c. Amendments:		<u>0</u>
d. Transfers/Extensions:		<u>3</u>
e. General:		<u>0</u>
f. Title V:		<u>0</u>
2. Delegated Permits Issued by EPC and Non-delegated Permits Recommended to DEP for Approval ( <sup>1</sup> Counted by Number of Fees Collected) - ( <sup>2</sup> Counted by Number of Emission Units affected by the Review):		
a. Operating <sup>1</sup> :		3
b. Construction <sup>1</sup> :		<u>16</u>
c. Amendments <sup>1</sup> :		<u>0</u>
d. Transfers/Extensions <sup>1</sup> :		<u>0</u>
e. Title V Operating <sup>2</sup> :		<u>1</u>
f. Permit Determinations <sup>2</sup> :		<u>1</u>
g. General:		<u>4</u>
3. Intent to Deny Permit Issued:		<u>1</u>
C. Administrative Enforcement		
1. New cases received:		<u>0</u>
2. On-going administrative cases:		
a. Pending:		7
b. Active:		<u>12</u>
c. Legal:		<u>5</u>
d. Tracking compliance (Administrative):		<u>27</u>
e. Inactive/Referred cases:		<u>0</u>
	Total	<u>51</u>
<hr/>		
3. NOIs issued:		<u>2</u>
<hr/>		
4. Citations issued:		<u>0</u>
<hr/>		

5.	Consent Orders Signed:	<u>3</u>
6.	Contributions to the Pollution Recovery Fund:	<u>\$39,421.63</u>
7.	Cases Closed:	<u>2</u>
D.	Inspections:	
1.	Industrial Facilities:	<u>14</u>
2.	Air Toxics Facilities:	
a.	Asbestos Emitters	<u>0</u>
b.	Area Sources (i.e. Drycleaners, Chrome Platers, etc...)	<u>15</u>
c.	Major Sources	<u>0</u>
3.	Asbestos Demolition/Renovation Projects:	<u>30</u>
E.	Open Burning Permits Issued:	<u>11</u>
F.	Number of Division of Forestry Permits Monitored:	<u>239</u>
G.	Total Citizen Complaints Received:	<u>52</u>
H.	Total Citizen Complaints Closed:	<u>46</u>
I.	Noise Sources Monitored:	<u>5</u>
J.	Air Program's Input to Development Regional Impacts:	<u>8</u>
K.	Test Reports Reviewed:	<u>169</u>
L.	Compliance:	
1.	Warning Notices Issued:	<u>14</u>
2.	Warning Notices Resolved:	<u>29</u>
3.	Advisory Letters Issued:	<u>38</u>
M.	AOR's Reviewed:	<u>13</u>
N.	Permits Reviewed for NESHAP Applicability:	<u>1</u>

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

**Total Revenue**

1. Non-delegated construction permit for an air pollution source	
(a) New Source Review or Prevention of Significant Deterioration sources	\$0.00
(b) all others	\$0.00
2. Non-delegated operation permit for an air pollution source	
(a) class B or smaller facility - 5 year permit	\$0.00
(b) class A2 facility - 5 year permit	\$0.00
(c) class A1 facility - 5 year permit	\$0.00
3. (a) Delegated Construction Permit for air pollution source (20% of the amount collected is forwarded to the DEP and not included here)	\$2,480.00
(b) Delegated operation permit for an air pollution source (20% of the amount collected is forwarded to the DEP and not included here)	\$4,000.00
(c) Delegated General Permit (20% is forwarded to DEP and not included here)	\$160.00
4. Non-delegated permit revision for an air	\$0.00
5. Non-delegated permit transfer of ownership, name change or extension	\$0.00
6. Notification for commercial demolition	
(a) for structure less than 50,000 sq ft	\$4,000.00
(b) for structure greater than 50,000 sq ft	\$400.00
7. Notification for asbestos abatement	
(a) renovation 160 to 1000 sq ft or 260 to 1000 linear feet of asbestos	\$1,800.00
(b) renovation greater than 1000 linear feet or 1000 sq ft	\$2,000.00
8. Open burning authorization	\$3,000.00
9. Enforcement Costs	\$3,357.13



MONTHLY ACTIVITIES REPORT  
 AIR MANAGEMENT DIVISION  
 November FY 2006

A. Public Outreach/Education Assistance:		
1. Phone Calls:		224
2. Literature Distributed:		<u>115</u>
3. Presentations:		<u>7</u>
4. Media Contacts:		<u>2</u>
5. Internet:		<u>30</u>
6. Host/Sponsor Workshops, Meetings, Special Events		<u>1</u>
		<hr/>
B. Industrial Air Pollution Permitting		
1. Permit Applications Received (Counted by Number of Fees Received):		
a. Operating:		<u>3</u>
b. Construction:		<u>7</u>
c. Amendments:		<u>0</u>
d. Transfers/Extensions:		<u>0</u>
e. General:		<u>4</u>
f. Title V:		<u>5</u>
2. Delegated Permits Issued by EPC and Non-delegated Permits Recommended to DEP for Approval ( <sup>1</sup> Counted by Number of Fees Collected) - ( <sup>2</sup> Counted by Number of Emission Units affected by the Review):		
a. Operating <sup>1</sup> :		<u>1</u>
b. Construction <sup>1</sup> :		<u>9</u>
c. Amendments <sup>1</sup> :		<u>0</u>
d. Transfers/Extensions <sup>1</sup> :		<u>0</u>
e. Title V Operating <sup>2</sup> :		<u>13</u>
f. Permit Determinations <sup>2</sup> :		<u>0</u>
g. General:		<u>3</u>
3. Intent to Deny Permit Issued:		<u>1</u>
C. Administrative Enforcement		
1. New cases received:		<u>1</u>
2. On-going administrative cases:		
a. Pending:		<u>8</u>
b. Active:		<u>13</u>
c. Legal:		<u>5</u>
d. Tracking compliance (Administrative):		<u>28</u>
e. Inactive/Referred cases:		<u>0</u>
Total		<u>54</u>

3.	NOIs issued:	<u>1</u>
4.	Citations issued:	<u>1</u>
5.	Consent Orders Signed:	<u>0</u>
6.	Contributions to the Pollution Recovery Fund:	<u>\$0.00</u>
7.	Cases Closed:	<u>2</u>
D.	Inspections:	
1.	Industrial Facilities:	<u>13</u>
2.	Air Toxics Facilities:	
a.	Asbestos Emitters	<u>1</u>
b.	Area Sources (i.e. Drycleaners, Chrome Platers, etc...)	<u>0</u>
c.	Major Sources	<u>0</u>
3.	Asbestos Demolition/Renovation Projects:	<u>14</u>
E.	Open Burning Permits Issued:	<u>9</u>
F.	Number of Division of Forestry Permits Monitored:	<u>280</u>
G.	Total Citizen Complaints Received:	<u>45</u>
H.	Total Citizen Complaints Closed:	<u>55</u>
I.	Noise Sources Monitored:	<u>8</u>
J.	Air Program's Input to Development Regional Impacts:	<u>6</u>
K.	Test Reports Reviewed:	<u>10</u>
L.	Compliance:	
1.	Warning Notices Issued:	<u>15</u>
2.	Warning Notices Resolved:	<u>16</u>
3.	Advisory Letters Issued:	<u>25</u>
M.	AOR's Reviewed:	<u>91</u>
N.	Permits Reviewed for NESHAP Applicability:	<u>0</u>

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

**Total Revenue**

1. Non-delegated construction permit for an air pollution source	
(a) New Source Review or Prevention of Significant Deterioration sources	\$0.00
(b) all others	
2. Non-delegated operation permit for an air pollution source	
(a) class B or smaller facility - 5 year permit	\$0.00
(b) class A2 facility - 5 year permit	\$0.00
(c) class A1 facility - 5 year permit	\$0.00
3. (a) Delegated Construction Permit for air pollution source (20% of the amount collected is forwarded to the DEP and not included here)	\$3,000.00
(b) Delegated operation permit for an air pollution source (20% of the amount collected is forwarded to the DEP and not included here)	\$320.00
(c) Delegated General Permit (20% is forwarded to DEP and not included here)	\$2,400.00
4. Non-delegated permit revision for an air	\$0.00
5. Non-delegated permit transfer of ownership, name change or extension	\$0.00
6. Notification for commercial demolition	
(a) for structure less than 50,000 sq ft	\$2,200.00
(b) for structure greater than 50,000 sq ft	\$600.00
7. Notification for asbestos abatement	
(a) renovation 160 to 1000 sq ft or 260 to 1000 linear feet of asbestos	\$0.00
(b) renovation greater than 1000 linear feet or 1000 sq ft	\$1,500.00
8. Open burning authorization	\$3,000.00
9. Enforcement Costs	\$0.00

MONTHLY ACTIVITIES REPORT  
AIR MANAGEMENT DIVISION  
October 2006

A.	Public Outreach/Education Assistance:	
1.	Phone Calls:	<u>163</u>
2.	Literature Distributed:	<u>38</u>
3.	Presentations:	<u>4</u>
4.	Media Contacts:	<u>2</u>
5.	Internet:	<u>0</u>
6.	Host/Sponsor Workshops, Meetings, Special Events	<u>1</u>
B.	Industrial Air Pollution Permitting	
1.	Permit Applications Received (Counted by Number of Fees Received):	
a.	Operating:	<u>2</u>
b.	Construction:	<u>7</u>
c.	Amendments:	<u>1</u>
d.	Transfers/Extensions:	<u>0</u>
e.	General:	<u>6</u>
f.	Title V:	<u>0</u>
2.	Delegated Permits Issued by EPC and Non-delegated Permits Recommended to DEP for Approval ( <sup>1</sup> Counted by Number of Fees Collected) - ( <sup>2</sup> Counted by Number of Emission Units affected by the Review):	
a.	Operating <sup>1</sup> :	<u>4</u>
b.	Construction <sup>1</sup> :	<u>3</u>
c.	Amendments <sup>1</sup> :	<u>0</u>
d.	Transfers/Extensions <sup>1</sup> :	<u>2</u>
e.	Title V Operating <sup>2</sup> :	<u>6</u>
f.	Permit Determinations <sup>2</sup> :	<u>0</u>
g.	General:	<u>0</u>
3.	Intent to Deny Permit Issued:	<u>0</u>
C.	Administrative Enforcement	
1.	New cases received:	<u>4</u>
2.	On-going administrative cases:	
a.	Pending:	<u>8</u>
b.	Active:	<u>14</u>
c.	Legal:	<u>5</u>
d.	Tracking compliance (Administrative):	<u>27</u>
e.	Inactive/Referred cases:	<u>0</u>
	Total	<u>54</u>
3.	NOIs issued:	<u>4</u>
4.	Citations issued:	<u>0</u>
5.	Consent Orders Signed:	<u>2</u>
6.	Contributions to the Pollution Recovery Fund:	<u>\$8,250</u>
7.	Cases Closed:	<u>1</u>

D.	Inspections:	
1.	Industrial Facilities:	<u>13</u>
2.	Air Toxics Facilities:	
a.	Asbestos Emitters	<u>0</u>
b.	Area Sources (i.e. Drycleaners, Chrome Platers, etc...)	<u>0</u>
c.	Major Sources	<u>5</u>
3.	Asbestos Demolition/Renovation Projects:	<u>16</u>
E.	Open Burning Permits Issued:	<u>4</u>
F.	Number of Division of Forestry Permits Monitored:	<u>287</u>
G.	Total Citizen Complaints Received:	<u>77</u>
H.	Total Citizen Complaints Closed:	<u>51</u>
I.	Noise Sources Monitored:	<u>5</u>
J.	Air Program's Input to Development Regional Impacts:	<u>5</u>
K.	Test Reports Reviewed:	<u>86</u>
L.	Compliance:	
1.	Warning Notices Issued:	<u>14</u>
2.	Warning Notices Resolved:	<u>8</u>
3.	Advisory Letters Issued:	<u>6</u>
M.	AOR's Reviewed:	<u>30</u>
N.	Permits Reviewed for NESHAP Applicability:	<u>3</u>

**MEMORANDUM**

**DATE:** December 5, 2006

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

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

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

**A. ADMINISTRATIVE ENFORCEMENT Done**

1. New cases received	1
2. On-going administrative cases	114
a. Pending	8
b. Active	54
c. Legal	3
d. Tracking Compliance (Administrative)	35
e. Inactive/Referred Cases	14
3. NOI's issued	1
4. Citations issued	0
5. Consent Orders and Settlement Letters Signed	5
6. Civil Contributions to the Pollution Recovery Fund	0
7. Enforcement Costs collected	\$4,161
9. Cases Closed	1

**B. SOLID AND HAZARDOUS WASTE**

1. Permits (received/reviewed)	28/35
2. EPC Authorization for Facilities NOT requiring DEP permit	0
3. Other Permits and Reports	1
a. County Permits	3/4
b. Reports	25/30
4. Inspections (Total)	344
a. Complaints	22
b. Compliance/Reinspections	9
c. Facility Compliance	26
d. Small Quantity Generator	287
e. P2 Audits	0
5. Enforcement	
a. Complaints Received/Closed	23/21
b. Warning Notices Issued/Closed	2/0
c. Compliance letters	42
d. Letters of Agreement	0
e. Agency Referrals	2
6. Pamphlets, Rules and Material Distributed	167

**C. STORAGE TANK COMPLIANCE**

1. Inspections	
a. Compliance	75
b. Installation	13
c. Closure	03
d. Compliance Re-Inspections	04
2. Installation Plans Received/Reviewed	09/05
3. Closure Plans & Reports	
a. Closure Plans Received/ Reviewed	02/04
b. Closure Reports Received/Reviewed	09/12
4. Enforcement	
a. Non-compliance Letters Issued/Closed	42/12
b. Warning Notices Issued/Closed	01/00
c. Cases referred to Enforcement	01
d. Complaints Received/Investigated	00/00
e. Complaints Referred	00
5. Discharge Reporting Forms Received	00
6. Incident Notification Forms Received	05
7. Cleanup Notification Letters Issued	03
8. Public Assistance	200+

**D. STORAGE TANK CLEANUP**

1. Inspections	25
2. Reports Received/Reviewed	104/105
a. Site Assessment	19/16
b. Source Removal	4/5
c. Remedial Action Plans (RAP's)	11/11
d. Site Rehabilitation Completion Order/ No Further Action Order	04/04
e. Active Remediation/Monitoring	47/50
f. Others	19/19
3. State Cleanup	
a. Active Sites	NO LONGER ADMINISTERED
b. Funds Dispersed	

**E. RECORD REVIEWS - 27**

**F. PUBLIC INFORMATION PROJECTS - 3**



## M E M O R A N D U M

**DATE:** October 10, 2006

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

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

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

### A. ADMINISTRATIVE ENFORCEMENT

1. New cases received	3
2. On-going administrative cases	116
a. Pending	6
b. Active	59
c. Legal	3
d. Tracking Compliance (Administrative)	34
e. Inactive/Referred Cases	14
3. NOI's issued	0
4. Citations issued	1
5. Consent Orders and Settlement Letters Signed	2
6. Civil Contributions to the Pollution Recovery Fund	\$16,103
7. Enforcement Costs collected	\$4,007
9. Cases Closed	3

**B. SOLID AND HAZARDOUS WASTE**

1. Permits (received/reviewed)	49/42
2. EPC Authorization for Facilities NOT requiring DEP permit	1
3. Other Permits and Reports	1
a. County Permits	4/4
b. Reports	43/37
4. Inspections (Total)	172
a. Complaints	15
b. Compliance/Reinspections	19
c. Facility Compliance	29
d. Small Quantity Generator	108
e. P2 Audits	1
5. Enforcement	
a. Complaints Received/Closed	15/16
b. Warning Notices Issued/Closed	5/2
c. Compliance letters	66
d. Letters of Agreement	1
e. Agency Referrals	3
6. Pamphlets, Rules and Material Distributed	200

**C. STORAGE TANK COMPLIANCE**

1. Inspections	
a. Compliance	72
b. Installation	10
c. Closure	10
d. Compliance Re-Inspections	09
2. Installation Plans Received/Reviewed	07/12
3. Closure Plans & Reports	
a. Closure Plans Received/ Reviewed	10/06
b. Closure Reports Received/Reviewed	05/11
4. Enforcement	
a. Non-compliance Letters Issued/Closed	41/05
b. Warning Notices Issued/Closed	01/00
c. Cases referred to Enforcement	01
d. Complaints Received/Investigated	00/00
e. Complaints Referred	00
5. Discharge Reporting Forms Received	03
6. Incident Notification Forms Received	05
7. Cleanup Notification Letters Issued	05
8. Public Assistance	200+

**D. STORAGE TANK CLEANUP**

1. Inspections	23
2. Reports Received/Reviewed	109/106
a. Site Assessment	15/16
b. Source Removal	4/3
c. Remedial Action Plans (RAP's)	13/09
d. Site Rehabilitation Completion Order/ No Further Action Order	03/05
e. Active Remediation/Monitoring	53/47
f. Others	21/26
3. State Cleanup	
a. Active Sites	NO LONGER ADMINISTERED
b. Funds Dispersed	

**E. RECORD REVIEWS - 16**

**F. PUBLIC INFORMATION PROJECTS - 1**

## MEMORANDUM

**DATE:** November 2, 2006

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

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

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

### A. ADMINISTRATIVE ENFORCEMENT

1. New cases received	3
2. On-going administrative cases	113
a. Pending	7
b. Active	55
c. Legal	3
d. Tracking Compliance (Administrative)	34
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	\$7,375
7. Enforcement Costs collected	\$1,200
9. Cases Closed	3

**B. SOLID AND HAZARDOUS WASTE**

1. Permits (received/reviewed)	72/56
2. EPC Authorization for Facilities NOT requiring DEP permit	1
3. Other Permits and Reports	1
a. County Permits	2/6
b. Reports	64/49
4. Inspections (Total)	248
a. Complaints	27
b. Compliance/Reinspections	16
c. Facility Compliance	34
d. Small Quantity Generator	170
e. P2 Audits	1
5. Enforcement	
a. Complaints Received/Closed	25/21
b. Warning Notices Issued/Closed	2/3
c. Compliance letters	68
d. Letters of Agreement	2
e. Agency Referrals	2
6. Pamphlets, Rules and Material Distributed	214

**C. STORAGE TANK COMPLIANCE**

1. Inspections	
a. Compliance	50
b. Installation	24
c. Closure	14
d. Compliance Re-Inspections	06
2. Installation Plans Received/Reviewed	10/08
3. Closure Plans & Reports	
a. Closure Plans Received/ Reviewed	01/05
b. Closure Reports Received/Reviewed	02/05
4. Enforcement	
a. Non-compliance Letters Issued/Closed	28/08
b. Warning Notices Issued/Closed	00/00
c. Cases referred to Enforcement	02
d. Complaints Received/Investigated	03/03
e. Complaints Referred	00
5. Discharge Reporting Forms Received	03
6. Incident Notification Forms Received	05
7. Cleanup Notification Letters Issued	02
8. Public Assistance	200+

**D. STORAGE TANK CLEANUP**

1. Inspections	37
2. Reports Received/Reviewed	129/137
a. Site Assessment	13/12
b. Source Removal	5/7
c. Remedial Action Plans (RAP's)	10/10
d. Site Rehabilitation Completion Order/ No Further Action Order	10/08
e. Active Remediation/Monitoring	59/65
f. Others	32/35
3. State Cleanup	
a. Active Sites	NO LONGER
b. Funds Dispersed	ADMINISTERED

**E. RECORD REVIEWS - 26**

**F. PUBLIC INFORMATION PROJECTS - 1**

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

**A. ENFORCEMENT**

1. New Enforcement Cases Received:	1
2. Enforcement Cases Closed:	1
3. Enforcement Cases Outstanding:	57
4. Enforcement Documents Issued:	2
5. Recovered costs to the General Fund:	\$200.00
6. Contributions to the Pollution Recovery Fund:	\$500.00

<u>Case Name</u>	<u>Violation</u>	<u>Amount</u>
a. Citrus Park Retail	Placement of C/S in service without acceptance letter	\$500.00

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

1. Permit Applications Received:	41
a. Facility Permit:	11
(i) Types I and II	2
(ii) Types III	9
b. Collection Systems-General	16
c. Collection Systems-Dry Line/Wet Line:	14
d. Residuals Disposal:	0
2. Permit Applications Approved:	51
a. Facility Permit:	6
b. Collection Systems-General:	21
c. Collection Systems-Dry Line/Wet Line:	24
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:	85
a. Facility Permit:	21
b. Collection Systems-General:	34
c. Collection Systems-Dry Line/Wet Line:	29
d. Residuals Disposal:	1
7. Permit Determination:	3
8. Special Project Reviews:	0
a. Reuse:	0
b. Residuals/AUPs:	0
c. Others:	0
<b>C. INSPECTIONS - DOMESTIC</b>	
1. Compliance Evaluation:	9
a. Inspection (CEI):	0
b. Sampling Inspection (CSI):	9
c. Toxics Sampling Inspection (XSI):	0
d. Performance Audit Inspection (PAI):	0
2. Reconnaissance:	53
a. Inspection (RI):	9
b. Sample Inspection (SRI):	0
c. Complaint Inspection (CRI):	44
d. Enforcement Inspection (ERI):	0
3. Engineering Inspections:	36
a. Reconnaissance Inspection (RI):	5
b. Sample Reconnaissance Inspection (SRI):	0
c. Residual Site Inspection (RSI):	0
d. Preconstruction Inspection (PCI):	7
e. Post Construction Inspection (XCI):	22
f. On-site Engineering Evaluation:	1
g. Enforcement Reconnaissance Inspection (ERI):	1
<b>D. PERMITTING/PROJECT REVIEW - INDUSTRIAL</b>	46
1. Permit Applications Received:	1
a. Facility Permit:	0
(i) Types I and II	0
(ii) Type III with Groundwater Monitoring:	0
(iii) Type III w/o Groundwater Monitoring:	0
b. General Permit:	0



c. Preliminary Design Report:	1
(i) Types I and II	0
(ii) Type III with Groundwater Monitoring:	0
(iii) Type III w/o Groundwater Monitoring:	1
2. Permits Recommended to DEP for Approval:	2
3. Special:	0
a. Facility Permits:	0
b. General Permits:	0
4. Permitting Determination:	0
5. Special Project Reviews:	0
a. Phosphate:	5
b. Industrial Wastewater:	24
c. Others:	14
<b>E. INSPECTIONS - INDUSTRIAL</b>	<b>30</b>
1. Compliance Evaluation:	12
a. Inspection (CEI):	12
b. Sampling Inspection (CSI):	0
c. Toxics Sampling Inspection (XSI):	0
d. Performance Audit Inspection (PAI):	0
2. Reconnaissance:	15
a. Inspection (RI):	9
b. Sample Inspection (SRI):	0
c. Complaint Inspection (CRI):	6
d. Enforcement Reconnaissance Inspections (ERI):	0
3. Engineering Inspections:	3
a. Compliance Evaluation (CEI):	3
b. Sampling Inspection (CSI):	0
c. Performance Audit Inspection (PAI):	0
d. Complaint Inspection (CRI):	0
e. Enforcement Reconnaissance Inspections (ERI):	0
<b>F. INVESTIGATION/COMPLIANCE</b>	
1. Citizen Complaints:	
a. Domestic:	34
(i) Received:	23
(ii) Closed:	11
b. Industrial:	5
(i) Received:	3
(ii) Closed:	2

2. Warning Notices:	
a. Domestic:	11
(i) Received:	8
(ii) Closed:	3
b. Industrial:	4
(i) Received:	3
(ii) Closed:	1
3. Non-Compliance Advisory Letters:	20
4. Environmental Compliance Reviews:	169
a. Industrial:	33
b. Domestic:	136
5. Special Project Reviews:	0
<b>G. RECORD REVIEWS</b>	
1. Permitting:	7
2. Enforcement:	1
<b>H. ENVIRONMENTAL SAMPLES ANALYZED/REPORTS REVIEWED FOR:</b>	
1. Air Division:	60
2. Waste Division:	0
3. Water Division:	13
4. Wetlands Division:	0
5. ERM Division:	123
6. Biomonitoring Reports:	9
7. Outside Agency:	30
<b>I. SPECIAL PROJECT REVIEWS:</b>	10
1. DRIs:	4
2. ARs:	0
3. Technical Support:	6
4. Other:	0

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

**A. ENFORCEMENT**

1. New Enforcement Cases Received:	6
2. Enforcement Cases Closed:	7
3. Enforcement Cases Outstanding:	57
4. Enforcement Documents Issued:	8
5. Recovered costs to the General Fund:	\$1,765.00
6. Contributions to the Pollution Recovery Fund:	\$13,500.00

<u>Case Name</u>	<u>Violation</u>	<u>Amount</u>
a. Jaymar Villas	Failure to meet effluent limits/Improper operation/ Failure to maintain/ Discharging raw sewage	\$7,000.00
b. Florida Veal	Improper operation/Failure to maintain/Violation of permit conditions	\$1,500.00
c. Symmes Road Forcemain Ext.	Placement of C/S in service without acceptance letter	\$500.00
d. Popi's Place #5	Placement of C/S in service without acceptance letter	\$500.00
e. Sheldon Creek Townhomes	Placement of C/S in service without acceptance letter	\$500.00
f. Apollo Beach Racquet Club	Construction without a permit	\$1,000.00
g. Belmont Heights Estates Phase 3	Placement of C/S in service without acceptance letter	\$500.00
h. Speer MHP	Violation of permit conditions	\$2,000.00

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

1. Permit Applications Received:	53
a. Facility Permit:	3
(i) Types I and II	1
(ii) Types III	2
b. Collection Systems-General	21
c. Collection Systems-Dry Line/Wet Line:	26
d. Residuals Disposal:	0
2. Permit Applications Approved:	49
a. Facility Permit:	9
b. Collection Systems-General:	12
c. Collection Systems-Dry Line/Wet Line:	28
d. Residuals Disposal:	0

3. Permit Applications Recommended for Disapproval:	1
a. Facility Permit:	1
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:	94
a. Facility Permit:	16
b. Collection Systems-General:	39
c. Collection Systems-Dry Line/Wet Line:	39
d. Residuals Disposal:	0
7. Permit Determination:	4
8. Special Project Reviews:	0
a. Reuse:	0
b. Residuals/AUPs:	0
c. Others:	0
<b>C. INSPECTIONS - DOMESTIC</b>	
1. Compliance Evaluation:	9
a. Inspection (CEI):	1
b. Sampling Inspection (CSI):	6
c. Toxics Sampling Inspection (XSI):	0
d. Performance Audit Inspection (PAI):	2
2. Reconnaissance:	63
a. Inspection (RI):	7
b. Sample Inspection (SRI):	0
c. Complaint Inspection (CRI):	56
d. Enforcement Inspection (ERI):	0

3. Engineering Inspections:	36
a. Reconnaissance Inspection (RI):	2
b. Sample Reconnaissance Inspection (SRI):	0
c. Residual Site Inspection (RSI):	0
d. Preconstruction Inspection (PCI):	9
e. Post Construction Inspection (XCI):	25
f. On-site Engineering Evaluation:	0
g. Enforcement Reconnaissance Inspection (ERI):	0
<b>D. PERMITTING/PROJECT REVIEW - INDUSTRIAL</b>	
1. Permit Applications Received:	3
a. Facility Permit:	0
(i) Types I and II	0
(ii) Type III with Groundwater Monitoring:	0
(iii) Type III w/o Groundwater Monitoring:	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:	2
2. Permits Recommended to DEP for Approval:	0
3. Special:	0
a. Facility Permits:	0
b. General Permits:	0
4. Permitting Determination:	0
5. Special Project Reviews:	33
a. Phosphate:	5
b. Industrial Wastewater:	13
c. Others:	15
<b>E. INSPECTIONS - INDUSTRIAL</b>	
1. Compliance Evaluation:	8
a. Inspection (CEI):	8
b. Sampling Inspection (CSI):	0
c. Toxics Sampling Inspection (XSI):	0
d. Performance Audit Inspection (PAI):	0

2.	Reconnaissance:	18
	a. Inspection (RI):	11
	b. Sample Inspection (SRI):	0
	c. Complaint Inspection (CRI):	7
	d. Enforcement Reconnaissance Inspections (ERI):	0
3.	Engineering Inspections:	4
	a. Compliance Evaluation (CEI):	4
	b. Sampling Inspection (CSI):	0
	c. Performance Audit Inspection (PAI):	0
	d. Complaint Inspection (CRI):	0
	e. Enforcement Reconnaissance Inspections (ERI):	0
<b>F. INVESTIGATION/COMPLIANCE</b>		
1.	Citizen Complaints:	40
	a. Domestic:	33
	(i) Received:	21
	(ii) Closed:	12
	b. Industrial:	7
	(i) Received:	2
	(ii) Closed:	5
2.	Warning Notices:	19
	a. Domestic:	16
	(i) Received:	7
	(ii) Closed:	9
	b. Industrial:	3
	(i) Received:	1
	(ii) Closed:	2
3.	Non-Compliance Advisory Letters:	10
4.	Environmental Compliance Reviews:	154
	a. Industrial:	57
	b. Domestic:	97
5.	Special Project Reviews:	0
<b>G. RECORD REVIEWS</b>		
1.	Permitting:	2
2.	Enforcement:	3

H. ENVIRONMENTAL SAMPLES ANALYZED/REPORTS REVIEWED FOR:

1. Air Division:	87
2. Waste Division:	0
3. Water Division:	21
4. Wetlands Division:	0
5. ERM Division:	143
6. Biomonitoring Reports:	6
7. Outside Agency:	64

I. SPECIAL PROJECT REVIEWS:

1. DRIs:	6
2. ARs:	1
3. Technical Support:	5
4. Other:	0

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

**A. ENFORCEMENT**

1. New Enforcement Cases Received:	4	
2. Enforcement Cases Closed:	4	
3. Enforcement Cases Outstanding:	56	
4. Enforcement Documents Issued:	10	
5. Recovered costs to the General Fund:	\$1,020.00	
6. Contributions to the Pollution Recovery Fund:	\$4,000.00	
<u>Case Name</u>	<u>Violation</u>	<u>Amount</u>
a. Florida Veal Processors, Inc.	Improper operation/Failure to maintain/Violation of permit conditions	\$1,500.00
b. Maronda Homes System Plant	Placement of C/S in service w/out acceptance letter	\$500.00
c. Middle School OO	Placement of C/S in service w/out acceptance letter	\$500.00
d. Armenia Avenue Office Buildings	Placement of C/S in service w/out acceptance letter	\$500.00
e. Waffle House Valrico	Placement of C/S in service w/out acceptance letter	\$500.00
f. Elementary School K	Placement of C/S in service w/out acceptance letter	\$500.00

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

1. Permit Applications Received:	34
a. Facility Permit:	6
(i) Types I and II	0
(ii) Types III	6
b. Collection Systems-General	14
c. Collection Systems-Dry Line/Wet Line:	14
d. Residuals Disposal:	0
2. Permit Applications Approved:	36
a. Facility Permit:	5
b. Collection Systems-General:	13
c. Collection Systems-Dry Line/Wet Line:	18
d. Residuals Disposal:	0



3.	Engineering Inspections:	
	a. Reconnaissance Inspection (RI):	1
	b. Sample Reconnaissance Inspection (SRI):	0
	c. Residual Site Inspection (RSI):	0
	d. Preconstruction Inspection (PCI):	16
	e. Post Construction Inspection (XCI):	27
	f. On-site Engineering Evaluation:	0
	g. Enforcement Reconnaissance Inspection (ERI):	0
<b>D.</b>	<b>PERMITTING/PROJECT REVIEW - INDUSTRIAL</b>	<b>32</b>
1.	Permit Applications Received:	3
	a. Facility Permit:	0
	(i) Types I and II	0
	(ii) Type III with Groundwater Monitoring:	0
	(iii) Type III w/o Groundwater Monitoring:	0
	b. General Permit:	2
	c. Preliminary Design Report:	0
	(i) Types I and II	0
	(ii) Type III with Groundwater Monitoring:	0
	(iii) Type III w/o Groundwater Monitoring:	1
2.	Permits Recommended to DEP for Approval:	1
3.	Special:	0
	a. Facility Permits:	0
	b. General Permits:	0
4.	Permitting Determination:	0
5.	Special Project Reviews:	28
	a. Phosphate:	2
	b. Industrial Wastewater:	18
	c. Others:	8
<b>E.</b>	<b>INSPECTIONS - INDUSTRIAL</b>	<b>26</b>
1.	Compliance Evaluation:	4
	a. Inspection (CEI):	4
	b. Sampling Inspection (CSI):	0
	c. Toxics Sampling Inspection (XSI):	0
	d. Performance Audit Inspection (PAI):	0

2. Reconnaissance:	19
a. Inspection (RI):	10
b. Sample Inspection (SRI):	0
c. Complaint Inspection (CRI):	9
d. Enforcement Reconnaissance Inspections (ERI):	0
3. Engineering Inspections:	3
a. Compliance Evaluation (CEI):	2
b. Sampling Inspection (CSI):	0
c. Performance Audit Inspection (PAI):	1
d. Complaint Inspection (CRI):	0
e. Enforcement Reconnaissance Inspections (ERI):	0
<b>F. INVESTIGATION/COMPLIANCE</b>	
1. Citizen Complaints:	
a. Domestic:	12
(i) Received:	10
(ii) Closed:	2
b. Industrial:	7
(i) Received:	4
(ii) Closed:	3
2. Warning Notices:	
a. Domestic:	15
(i) Received:	9
(ii) Closed:	6
b. Industrial:	2
(i) Received:	0
(ii) Closed:	2
3. Non-Compliance Advisory Letters:	27
4. Environmental Compliance Reviews:	149
a. Industrial:	30
b. Domestic:	119
5. Special Project Reviews:	0
<b>G. RECORD REVIEWS</b>	
1. Permitting:	4
2. Enforcement:	0

3. Permit Applications Recommended for Disapproval:	1
a. Facility Permit:	1
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:	94
a. Facility Permit:	22
b. Collection Systems-General:	30
c. Collection Systems-Dry Line/Wet Line:	41
d. Residuals Disposal:	1
7. Permit Determination:	2
8. Special Project Reviews:	0
a. Reuse:	0
b. Residuals/AUPs:	0
c. Others:	0

**C. INSPECTIONS - DOMESTIC**

1. Compliance Evaluation:	9
a. Inspection (CEI):	0
b. Sampling Inspection (CSI):	8
c. Toxics Sampling Inspection (XSI):	0
d. Performance Audit Inspection (PAI):	1
2. Reconnaissance:	56
a. Inspection (RI):	26
b. Sample Inspection (SRI):	0
c. Complaint Inspection (CRI):	21
d. Enforcement Inspection (ERI):	9

H. ENVIRONMENTAL SAMPLES ANALYZED/REPORTS REVIEWED FOR:

1. Air Division:	59
2. Waste Division:	0
3. Water Division:	6
4. Wetlands Division:	0
5. ERM Division:	144
6. Biomonitoring Reports:	10
7. Outside Agency:	25

I. SPECIAL PROJECT REVIEWS:

	7
1. DRIs:	3
2. ARs:	1
3. Technical Support:	3
4. Other:	0

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

A. General	Totals
1. Telephone Conferences	819
2. Unscheduled Citizen Assistance	79
3. Scheduled Meetings	292
4. Correspondence	512
B. Assessment Reviews	
1. Wetland Delineations	49
2. Surveys	66
3. Miscellaneous Activities in Wetland	30
4. Impact/ Mitigation Proposal	34
5. Tampa Port Authority Permit Applications	44
6. Wastewater Treatment Plants (FDEP)	1
7. DRI Annual Report	4
8. Land Alteration/Landscaping	4
9. Land Excavation	1
10. Phosphate Mining	4
11. Rezoning Reviews	27
12. CPA	0
13. Site Development	65
14. Subdivision	98
15. Wetland Setback Encroachment	12
16. Easement/Access-Vacating	0
17. Pre-Applications	40
18. On-Site Visits	341
C. Investigation and Compliance	
1. Complaints Received	35
2. Warning Notices Issued	21
3. Warning Notices Closed	10
4. Complaint Inspections	55
5. Return Compliance Inspections	7
6. Mitigation Monitoring Reports	7
7. Mitigation Compliance Inspections	25
8. Erosion Control Inspections	52
D. Enforcement	
1. Active Cases	23
2. Legal Cases	1
3. NOI's	4
4. Number of Citations Issued	0
5. Number of Consent Orders Signed	5
6. Administrative - Civil Cases Closed	9
7. Cases Referred to Legal Department	1
8. Contributions to Pollution Recovery	\$13,099.00
9. Enforcement Costs Collected	\$4,619.00

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

A. General	Totals
1. Telephone Conferences	876
2. Unscheduled Citizen Assistance	86
3. Scheduled Meetings	300
4. Correspondence	576
B. Assessment Reviews	
1. Wetland Delineations	40
2. Surveys	75
3. Miscellaneous Activities in Wetland	31
4. Impact/ Mitigation Proposal	24
5. Tampa Port Authority Permit Applications	63
6. Wastewater Treatment Plants (FDEP)	3
7. DRI Annual Report	6
8. Land Alteration/Landscaping	4
9. Land Excavation	1
10. Phosphate Mining	0
11. Rezoning Reviews	24
12. CPA	1
13. Site Development	55
14. Subdivision	133
15. Wetland Setback Encroachment	11
16. Easement/Access-Vacating	0
17. Pre-Applications	65
18. On-Site Visits	305
C. Investigation and Compliance	
1. Complaints Received	37
2. Warning Notices Issued	28
3. Warning Notices Closed	13
4. Complaint Inspections	51
5. Return Compliance Inspections	5
6. Mitigation Monitoring Reports	9
7. Mitigation Compliance Inspections	31
8. Erosion Control Inspections	56
D. Enforcement	
1. Active Cases	25
2. Legal Cases	2
3. NOI's	2
4. Number of Citations Issued	1
5. Number of Consent Orders Signed	8
6. Administrative - Civil Cases Closed	5
7. Cases Referred to Legal Department	2
8. Contributions to Pollution Recovery	\$6,648.00
9. Enforcement Costs Collected	\$1,663.00

ENVIRONMENTAL PROTECTION COMMISSION  
OF HILLSBOROUGH COUNTY  
POLLUTION RECOVERY TRUST FUND  
AS OF 11/30/06

Balance as of 10/01/06	*	\$1,933,214
Interest Accrued		10,182
Deposits	FY07	48,222
Disbursements	FY07	27,265
Pollution Recovery Fund Balance		<u>\$1,964,354</u>

**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	143,973
Pollution Prevention/Waste Reduction (101)	23,012
PRF Project Monitoring	40,255
Total	<u>306,449</u>

**FY2006 Approved Projects**

HCC Land Based Sea Grass Nursery	20,000
Seagrass Restoration & Longshore Bar Recovery	75,000
Nature's Classroom Phase III	188,000
2005 State of the River	4,727
Seawall Removal Fort Brooke Park	100,000
Analysis of Sources of Fecal Indicator Bacteria	125,000
Pollution Monitoring Pilot Project	45,150
Industrial Facilities Stormwater Inspection Program	28,885
Agriculture Pesticide Collection	24,000
Knights Preserve	35,235
Agriculture Best Mgmt Practice Implementation	150,000
Oyster Reef Shoreline	30,000
Nitrogen Emission/Deposition	40,906
Lake Thonotosassa Muck Removal	75,000
Erosion Control/Oyster Bar Habitat Creation	75,000
Tank Removal	25,000
Total	<u>1,041,903</u>

**Total of Encumbrances**

\$ 1,348,352

**Minimum Balance**

120,000

**Balance Available 11/30/06**

**\$496,002**

\* 10-002-910 Projects included in 10/01/06 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
Field Measurement for Wave Energy	51,251
Water & Coastal Area Restoration & Maint.	8,093
Port of Tampa Stormwater Improvement	45,000
Natures Classroom Capital Campaign	44,000

Total

\$ 455,061

COMMISSION  
 Brian Blair  
 Rose V. Ferlita  
 Ken Hagan  
 Al Higginbotham  
 Jim Norman  
 Mark Sharpe  
 Kevin White



Roger P. Stewart Center  
 3629 Queen Palm Dr. • Tampa, FL 33619  
 Ph: (813) 627-2600  
 Fax Numbers (813):  
 Admin. 627-2620 Waste 627-2640  
 Legal 627-2602 Wetlands 627-2630  
 Water 627-2670 ERM 627-2650  
 Air 627-2660 Lab 272-5157

Executive Director  
 Richard D. Garrity, Ph.D.

ENVIRONMENTAL PROTECTION COMMISSION  
 OF HILLSBOROUGH COUNTY  
 ANALYSIS OF GARDINIER SETTLEMENT TRUST FUND  
 AS OF NOVEMBER 30, 2006

Fund Balance as of 10/01/06	\$ 280,512
Interest Accrued	1,223
Disbursements FY07	- 0 -

Fund Balance	\$ 281,735
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Encumbrances Against Fund Balance:

SP625 Marsh Creek/Ruskin Inlet	\$ 25,900
SP627 Tampa Bay Scallop Restoration	22,613
SP636 Fantasy Island	20,000
SP630 E.G. Simmons Park	100
SP634 Cockroach Bay ELAPP Restoration	213,122
 Total of Encumbrances	 \$ 281,735

Fund Balance Available November 30, 2006	\$ - 0 -
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## EPC Agenda Item Cover Sheet

**Date of EPC Meeting:** December 14, 2006

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

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

**Division:** Legal Department

**Recommendation:** None, informational update.

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

**Background:** In an effort to provide the Commission a timely list of pending legal challenges, the EPC staff provides monthly updates. The updates not only can inform the Commission of pending litigation, but may be a tool to check for any conflicts they may have. 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:** December 2006 EPC Legal Case Summary

**EPC LEGAL DEPARTMENT MONTHLY REPORT**  
**December 2006**

**A. ADMINISTRATIVE CASES**

**NEW CASES [ 0 ]**

**EXISTING CASES [ 9 ]**

**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. On October 4, 2006 the parties jointly responded to the Hearing Officer that the matter would continue to be held in abeyance until at least January 8, 2007. (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 and the EPC is processing the permit renewal request. (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 was consolidated with the following two cases and the appeals were assigned to one hearing officer. A case management conference was held on Sept. 19, 2006 and a final hearing has been set for March 5, 2007. (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 was consolidated with the above and below cases and the appeals were 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 was consolidated with the above two cases and the appeals were 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. A Hearing Officer was appointed on August 14, 2006. The Case Management Conference was held on Sept. 6, 2006. A second case management conference is scheduled for December 11, 2006. No final hearing has been set pending possible settlement. (AZ)

**Mantua Manufacturing Company** [LEPC06-027]: On September 27, 2006 Mantua Manufacturing Co., a metal coating operation that emits air pollutants, filed a petition for administrative hearing challenging the Notice of Permit Denial that was issued to them on September 19, 2006. The parties are negotiating. (RM)

**Daniel A. and Celina Jozsi** [LEPC06-031]: On October 17, 2006, the Jozsis filed a Notice of Appeal and Objection to an Amended Consent Order entered on September 27, 2006. The Legal Department has issued a letter acknowledging the appeal. The Hearing Officer has been assigned. The EPC has sent the Appellant interrogatories and requests for production of documents. The final hearing date has not been scheduled yet. (AZ)

#### **RECENTLY RESOLVED CASES** [ 1 ]

**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. The Appellants have dismissed their appeal based on the settlement of a civil case. The matter has been closed. (AZ)

### **B. CIVIL CASES**

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

**Dwayne Gillispie and Donice Bhadelia** [LEPC06-032]: On November 13, 2006 the Plaintiffs filed and served a lawsuit against three EPC employees for alleged violations of federal civil rights. Plaintiffs are also seeking a declaratory judgment in federal court concerning EPC wetland regulations. The EPC is preparing to file a motion to dismiss. (AZ/RT)

#### **EXISTING CASES** [ 10 ]

**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 Default was entered on November 2, 2005. 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 reinitiate litigation with the current owners. The property was not conveyed and on Aug. 31, 2006 EPC filed a Motion to Set Trial Date. An Order Setting Non-Jury Trial Date was entered on Oct. 17, 2006 and the Trial has been re-scheduled for December 12, 2006. (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. The parties are in negotiations to resolve the case. (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)

**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 was transferred to the Second District Court of Appeal (2DCA). The EPC transferred the record to the 2DCA on Aug. 24, 2006. On Sept. 27, 2006 the EPC and James Winterroth entered into an Amended Consent Order. The Jozsis were provided the right to challenge the Amended Order. The Jozsis filed an appeal of the Amended Consent Order on Oct. 17, 2006 (see related case LEPC06-031). On Oct. 19, 2006 the EPC filed a Motion to Dismiss the 2DCA appeal. The Appellants have responded and the parties are waiting for the decision of the Court. (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)

**Ryaid Suleiman, et al. (Kings Food Mart)** [LEPC06-026]: Authority was granted on September 26, 2006 to pursue appropriate legal action against Respondents Ryaid Suleiman, Siham Jaber, Nader Jaber, Nina Jaber, Maher Jaber and Thair Jaber for violations of the EPC Storage Tank Rule. Citations were entered against the respondents on March 29, 2005. No appeal of the citations was filed and they became final orders of the Commission. The EPC Legal Dept. is preparing to file a lawsuit to compel compliance with the Final Orders. (AZ)

**Transpartz, Inc., Scott Yaslow, and Ernesto and Judith Baizan** [LEPC06-012]: Authority was granted on April 20, 2006 to pursue appropriate legal action against Transpartz, Inc., Scott Yaslow, and Ernesto and Judith Baizan to enforce the agency requirement that a Preliminary Contamination Assessment Plan be conducted on the property for

discharges of oil/transmission fluid to the environment. On July 21, 2006 the responsible parties entered into a settlement that required them to perform all the necessary corrective actions and to pay \$15,000 in penalties and \$2,400.00 in administrative costs. The case was closed in August 2006. The responsible parties have not performed any corrective actions and continue to operate the facility in violation of the applicable rules. On October 20, 2006 the Legal Department filed a lawsuit seeking injunctive relief and requesting civil penalties and costs. The parties are in negotiations to resolve the case. (AZ)

#### RECENTLY RESOLVED CASES [ 0 ]

#### C. OTHER OPEN CASES [4]

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)

**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 had until November 20, 2006 to file a petition. A fourth request for an extension of time was entered on November 10, 2006. The request was granted and petitioner has until February 19, 2007 to file a petition. (RT)

**James Hardie Building Products, Inc.** [LEPC06-018]: On 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 extensions has been approved through mid-January, 2007. (RM)

**Sun Tampa East, LLC d/b/a Tampa East RV Resort** [LEPC06-029]: On October 2, 2006 Tampa East RV Resort filed a request for an extension of time to file a petition for administrative hearing with regard to a Notice of Permit Denial. EPC issued an order granting in part and the Petitioner has until December 4, 2006 to file a petition. On November 30, 2006 the petitioner filed a second request for extension of time. The request was granted and the petitioner has until January 8, 2007 to file a petition in this matter. (RM)



## EPC Agenda Item Cover Sheet

**Date of EPC Meeting:** December 14, 2006

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

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

**Division:** Legal Department

**Recommendation:** None, informational update.

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

**Background:** In an effort to provide the Commission a timely list of pending legal challenges, the EPC staff provides monthly updates. The updates not only can inform the Commission of pending litigation, but may be a tool to check for any conflicts they may have. 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:** November 2006 EPC Legal Case Summary

**EPC LEGAL DEPARTMENT MONTHLY REPORT**  
**November 2006**

**A. ADMINISTRATIVE CASES**

**NEW CASES [ 0 ]**

**EXISTING CASES [ 10 ]**

**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. On October 4, 2006 the parties jointly responded to the Hearing Officer that the matter would continue to be held in abeyance until at least January 8, 2007. (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 was consolidated with the following two cases and the appeals were assigned to one hearing officer. A case management conference was held on Sept. 19, 2006 and a final hearing has been set for March 5, 2007. (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 was consolidated with the above and below cases and the appeals were 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 was consolidated with the above two cases and the appeals were 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. A Hearing Officer was appointed on August 14, 2006. The Case Management Conference was held on Sept. 6, 2006. A second case management conference is scheduled for December 11, 2006. No final hearing has been set pending possible settlement. (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)

**Mantua Manufacturing Company** [LEPC06-027]: On September 27, 2006 Mantua Manufacturing Co., a metal coating operation that emits air pollutants, filed a petition for administrative hearing challenging the Notice of Permit Denial that was issued to them on September 19, 2006. The parties are negotiating. (RM)

**Daniel A. and Celina Jozsi** [LEPC06-031]: On October 17, 2006, the Jozsis filed a Notice of Appeal and Objection to an Amended Consent Order entered on September 27, 2006. The Legal Department has issued a letter acknowledging the appeal. The Hearing Officer has been assigned. The EPC has sent the Appellant interrogatories and requests for production of documents. The final hearing date has not been scheduled yet. (AZ)

#### **RECENTLY RESOLVED CASES** [ 0 ]

### **B. CIVIL CASES**

#### **NEW CASES** [ 0 ]

#### **EXISTING CASES** [ 10 ]

**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 Default was entered on November 2, 2005. 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 reinitiate litigation with the current owners. The property was not conveyed and on Aug. 31, 2006 EPC filed a Motion to Set Trial Date. An Order Setting Non-Jury Trial Date was entered on Oct. 17, 2006 and the Trial is scheduled for November 14, 2006. (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)

**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 was transferred to the Second District Court of Appeal (2DCA). The EPC transferred the record to the 2DCA on Aug. 24, 2006. On Sept. 27, 2006 the EPC and James Winterroth entered into an Amended Consent Order. The Jozsis were provided the right to challenge the Amended Order. The Jozsis filed an appeal of the Amended Consent Order on Oct. 17, 2006 (see related case LEPC06-031). On Oct. 19, 2006 the EPC filed a Motion to Dismiss the 2DCA appeal. The Appellants have responded and the parties are waiting for the decision of the Court. (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 Tynner 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)

**Ryaid Suleiman, et al. (Kings Food Mart)** [LEPC06-026]: Authority was granted on September 26, 2006 to pursue appropriate legal action against Respondents Ryaid Suleiman, Siham Jaber, Nader Jaber, Nina Jaber, Maher Jaber and Thair Jaber for violations of the EPC Storage Tank Rule. Citations were entered against the respondents on March 29, 2005. No appeal of the citations was filed and they became final orders of the Commission. The EPC Legal Dept. is preparing to file a lawsuit to compel compliance with the Final Orders. (AZ)

**Transpartz, Inc., Scott Yaslow, and Ernesto and Judith Baizan** [LEPC06-012]: Authority was granted on April 20, 2006 to pursue appropriate legal action against Transpartz, Inc., Scott Yaslow, and Ernesto and Judith Baizan to enforce the agency requirement that a Preliminary Contamination Assessment Plan be conducted on the property for discharges of oil/transmission fluid to the environment. On July 21, 2006 the responsible parties entered into a settlement that required them to perform all the necessary corrective actions and to pay \$15,000 in penalties and \$2,400.00 in administrative costs. The case was closed in August 2006. The responsible parties have not performed any corrective actions and continue to operate the facility in violation of the applicable rules. On October 20, 2006 the Legal Department filed a lawsuit seeing injunctive relief and requesting civil penalties and costs. The parties are in negotiations to resolve the case. (AZ)

## RECENTLY RESOLVED CASES [ 2 ]

**Carlos Gonzalez** [LEPC06-030]: On October 11, 2006 EPC received service of a Complaint filed in the U.S. District Court, Middle District by Carlos Gonzalez who is seeking compensatory damages under the American with Disabilities Act and the Federal Age Discrimination in Employment Act. The Plaintiff voluntarily dismissed the lawsuit and the matter has been closed. (RT)

**Pedro Molina, d/b/a Professional Repair** [LEPC04-015]: Authority to take appropriate action against Pedro Molina, d/b/a Professional Repair for failing to comply with the terms of a previously issued Consent Order regarding a spray paint booth ventilation system and other permit condition violations was granted on July 22, 2004. The facility is no longer operating and Mr. Molina is thus far unable to be located. Staff has closed the case out pending locating Mr. Molina. (RT)

## C. OTHER OPEN CASES [ 8 ]

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. The parties continued to negotiate the proposed permit conditions, but the facility failed to challenge the permit or extend the most recent denial, thus the Legal file is closing. (RM)

**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)

**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 extensions has been approved through mid-January, 2007. (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. The facility has hooked up to the regional wastewater system and the extension of time ran to challenge the denial, thus the permit renewal is no longer needed and this legal challenge is moot. (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. EPC staff re-issued the permit and the case has been closed. (RT)

**Harsco Corporation** [LEPC06-028]: On September 28, 2006 Harsco Corporation filed a request for an extension of time to file a petition for administrative hearing regarding an air construction permit. An Order granting the extension to time was issued and the Petitioner has until October 31, 2006 to file a petition. (RT )

**Sun Tampa East, LLC d/b/a Tampa East RV Resort** [LEPC06-029]: On October 2, 2006 Tampa East RV Resort filed a request for an extension of time to file a petition for administrative hearing with regard to a Notice of Permit Denial. EPC issued an order granting in part and the Petitioner has until December 4, 2006 to file a petition. (RM)



## EPC Agenda Item Cover Sheet

**Date of EPC Meeting:** December 14, 2006

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

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

**Division:** Legal Department

**Recommendation:** None, informational update.

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

**Background:** In an effort to provide the Commission a timely list of pending legal challenges, the EPC staff provides monthly updates. The updates not only can inform the Commission of pending litigation, but may be a tool to check for any conflicts they may have. 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:** October 2006 EPC Legal Case Summary

**EPC LEGAL DEPARTMENT MONTHLY REPORT**  
**October 2006**

**A. ADMINISTRATIVE CASES**

**NEW CASES [ 2 ]**

**Mantua Manufacturing Company** [LEPC06-027]: On September 27, 2006 Mantua Manufacturing Co., a metal coating operation that emits air pollutants, filed a petition for administrative hearing challenging the Notice of Permit Denial that was issued to them on September 19, 2006. The parties have set a negotiation for late October.

**Daniel A. and Celina Jozsi** [LEPC06-031]: On October 17, 2006, the Jozsis filed a Notice of Appeal and Objection to an Amended Consent Order entered on September 27, 2006. The Legal Department has issued a letter acknowledging the appeal and is in the process of assigning a Hearing Officer and setting it for hearing. (AZ)

**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. On October 4, 2006 the parties jointly responded to the Hearing Officer that the matter would continue to be held in abeyance until at least January 8, 2007. (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 was consolidated with the following two cases and the appeals were assigned to one hearing officer. A case management conference was held on Sept. 19, 2006 and a final hearing has been set for March 5, 2007. (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 was consolidated with the above and below cases and the appeals were 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 was consolidated with the above two cases and the appeals were 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. A Hearing Officer was appointed on August 14, 2006. The Case Management Conference was held on Sept. 6, 2006. No final hearing has been set pending possible settlement. (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)

## **RECENTLY RESOLVED CASES [ 0 ]**

### **B. CIVIL CASES**

#### **NEW CASES [ 3 ]**

**Ryaid Suleiman, et al. (Kings Food Mart)** [LEPC06-026]: Authority was granted on September 26, 2006 to pursue appropriate legal action against Respondents Ryaid Suleiman,, Siham Jaber, Nader Jaber, Nina Jaber, Maher Jaber and Thaeer Jaber for violations of the EPC Storage Tank Rule. Citations were entered against the respondents on March 29, 2005. No appeal of the citations was filed and they became final orders of the Commission. The EPC Legal Dept. is preparing to file a lawsuit to compel compliance with the Final Orders (AZ).

**Transpartz, Inc., Scott Yaslow, and Ernesto and Judith Baizan** [LEPC06-012]: Authority was granted on April 20, 2006 to pursue appropriate legal action against Transpartz, Inc., Scott Yaslow, and Ernesto and Judith Baizan to enforce the agency requirement that a Preliminary Contamination Assessment Plan be conducted on the property for discharges of oil/transmission fluid to the environment. On July 21, 2006 the responsible parties entered into a settlement that required them to perform all the necessary corrective actions and to pay \$15,000 in penalties and \$2,400.00 in administrative costs. The case was closed in August 2006. The responsible parties have not performed any corrective actions and continue to operate the facility in violation of the applicable rules. On October 20, 2006 the Legal Department filed a lawsuit seeking injunctive relief and requesting civil penalties and costs. (AZ)

**Carlos Gonzalez** [LEPC06-030]: On October 11, 2006 EPC received service of a Complaint filed in the U.S. District Court, Middle District by Carlos Gonzalez who is seeking compensatory damages under the American with Disabilities Act and the Federal Age Discrimination in Employment Act. The Legal Dept. is preparing an answer to the Complaint. (RT)

## 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 Default was entered on November 2, 2005. 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. The property was not conveyed and on Aug. 31, 2006 EPC filed a Motion to Set Trial Date. An Order Setting Non-Jury Trial Date was entered on Oct. 17, 2006 and the Trial is scheduled for November 14, 2006. (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 was transferred to the Second District Court of Appeal (2DCA). The EPC transferred the record to the 2DCA on Aug. 24, 2006. On Sept. 27, 2006 the EPC and James Winterroth entered into an Amended Consent Order. The Jozsis were provided the right to challenge the Amended Order. The Jozsis filed an appeal of the Amended Consent Order on Oct. 17, 2006 (see related case LEPC06-031). On Oct. 19, 2006 the EPC filed a Motion to Dismiss the 2DCA appeal.

**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)

#### RECENTLY RESOLVED CASES [ 0 ]

#### C. OTHER OPEN CASES [ 8 ]

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)

**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)

**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. EPC staff re-issued the permit and the case has been closed. (RT)

**Harsco Corporation** [LEPC06-028]: On September 28, 2006 Harsco Corporation filed a request for an extension of time to file a petition for administrative hearing regarding an air construction permit. An Order granting the extension to time was issued and the Petitioner has until October 31, 2006 to file a petition. (RT)

**Sun Tampa East, LLC d/b/a Tampa East RV Resort** [LEPC06-029]: On October 2, 2006 Tampa East RV Resort filed a request for an extension of time to file a petition for administrative hearing with regard to a Notice of Permit Denial. EPC issued an order granting in part and the Petitioner has until December 4, 2006 to file a petition. (RM)





## EPC Agenda Item Cover Sheet

**Date of EPC Meeting:** November 16, 2006

**Subject:** Request for Authority to Take Appropriate Legal Action against Hendry Corporation

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

**Division:** Air Management Division

**Recommendation:** EPC staff recommends that the EPC Board authorize staff to take appropriate legal action, including but not limited to a civil law suit, against the Hendry Corporation for various environmental violations at multiple facilities and grant the Executive Director the authorization to settle any civil action.

**Brief Summary:** The Hendry Corporation (Hendry) is in violation of a provision in a Consent Order effective on April 12, 2005, which required Hendry to submit records required by its air permit for 2002, 2003, and 2004. The records were needed to demonstrate compliance with air pollution emission limits for Hendry.

**Background:** EPC staff conducted an inspection on July 16, 2003 of the Hendry Corporation (Hendry) facility, which at the time of the inspection was located at 5107 South Westshore Blvd., Tampa. In follow-up to the inspection, EPC staff reviewed records that Hendry is required to keep to demonstrate compliance with air emission limits in its air permit. Hendry corrected all violations except the requirement to submit EPA Volatile Organic Compound (VOC) data sheets for coatings applied during calendar years 2002, 2003, and 2004. The Consent Order entered into on July 16, 2003, required Hendry to submit the VOC data sheets within 30 days of the effective date of the Consent Order. Hendry failed to do so, and has not done so to date. Under the air program's self-reporting requirements, this data is required in part to determine the compliance status of the Hendry facility as it pertains to air emission limits. EPC staff is requesting authority from the EPC Board to take appropriate legal action against Hendry to resolve the Consent Order violation, and any environmental violations at any past or present facility.

**Number of Attachments:** None



## EPC Agenda Item Cover Sheet

**Date of EPC Meeting:** December 14, 2006

**Subject:** Request for authority to take appropriate legal action against Phillips & Munzel Oil Company, and Shell Oil Company

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

**Division:** Waste Management

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

**Brief Summary:** Shell Oil Company owns property located at 403 South Tamiami Trail, Ruskin, Florida. Phillips and Munzel Oil Company operates the retail fuel station known as Shell Ruskin located on this property. The gas station maintains three regulated 10,000 gallon underground storage tanks containing gasoline that are not in compliance with the EPC Act and Rules of the EPC, Chapter 1-12.

**Background:** The Executive Director executed a Citation of Violation and Order to Correct (Citation) on September 6, 2006 to Shell Oil Company and Phillips & Munzel Oil Company for violations of Chapter 1-12, Storage Tank Rule. The violations included failure to demonstrate financial responsibility to pay for corrective action and third party liability resulting from a discharge; failure to provide 30 days notification for change of ownership and change in registration to reflect out of service status, failure to provide 10 days notification before a change in status, failure to submit a Storage Tank Registration Form within 30 days indicating a change of ownership and tank systems out of service status, failure to perform release detection on sumps and liners at least once a month, failure to meet the Category A & B systems release detection method, failure to perform an annual operability test of the veeder root console and the electric line leak detectors, failure to provide permanent records within 5 working days, and failure to properly close the storage tank system within the required time limit. Neither party filed an appeal to the Citations and they became Final Orders of the Commission. EPC staff has had several telephone conversations with Robert Phillips of Phillips & Munzel Oil Company who stated that he was planning to remove and replace the storage tank system. The storage tanks have been out of service since October 2001 and by law should have been properly closed by October 2003. To date, EPC has received no evidence that the violations have been corrected. Therefore, we are requesting authority to take appropriate 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:** December 14, 2006

**Subject:** Request for authority to take appropriate legal action against Shree Krishna, Inc. and Brooks Properties, Inc.

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

**Division:** Waste Management

**Recommendation:** Grant authority to pursue appropriate legal action against Shree Krishna, Inc. and Brooks Properties, Inc., including but not limited to a civil law suit, and grant the Executive Director the authorization to settle any civil action.

**Brief Summary:** Shree Krishna, Inc. owns and operates a retail gasoline and convenience store known as Seffner Food Store located at 340 Highway 574, Seffner, in Hillsborough County, Florida (Property). The Property is owned by Brooks Properties, Inc. The site currently is in violation due to evidence of petroleum contamination. A Site Assessment Report is required for the petroleum contamination but the responsible parties have failed to adequately respond.

**Background:** Shree Krishna, Inc. owns and operates a retail gasoline and convenience store known as Seffner Food Store located at 340 Highway 574, Seffner, in Hillsborough County, Florida (Property). The Property is owned by Brooks Properties, Inc. A compliance inspection revealed high organic vapor concentration in an onsite monitoring well, indicating petroleum contamination. EPC staff advised that a Site Assessment Report (SAR) was required within 270 days of discovery of this discharge of petroleum product.

Shree Krishna, Inc. applied to the Department of Environmental Protection (DEP) for the Florida Petroleum Liability Restoration Insurance Program (FPLRIP) and Petroleum Cleanup Participation Program (PCPP), but was found to be ineligible for participation in these programs.

On May 3, 2002, EPC staff issued a Citation and Order to Correct Violation to Shree Krishna, Inc. and Brooks Properties, Inc. for failing to submit a SAR pursuant to Chapter 62-770, F.A.C. The Citations were not appealed and on September 25, 2002, EPC staff issued a Final Order to Shree Krishna and Brooks Properties, Inc.

In February 2003, Brooks Properties, Inc. requested several extensions of time to file a petition for administrative hearing with DEP, contesting the denial of PCPP eligibility. The last extension request expired December 22, 2003 and the PCPP denial is final.

Staff is requesting authority to take appropriate legal action to resolve this matter by requiring the responsible parties to properly assess and cleanup the subject Property

**List of Attachments:** none



## EPC Agenda Item Cover Sheet

**Date of EPC Meeting:** November 16, 2006

**Subject:** Request for a public hearing to approve amendments (updates) to Chp. 1-3 (Air Pollution Rule), Rules of the EPC

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

**Division:**    Legal Department

**Recommendation:**

Approve holding a public hearing at the January, 2007 EPC Board Meeting to consider updates to Chapter 1-3, Rules of the EPC (Air Pollution Rule)

**Brief Summary:**

Pursuant to the EPC Act, the EPC Board must hold a noticed public hearing to approve a rule. The EPC staff requests that the Board approve holding an Air Pollution Rule update public hearing at its January 2007 meeting.

**Background:**

Pursuant to the Hillsborough County Environmental Protection Act (EPC Act) Section 5.2, the EPC Board must hold a noticed public hearing to approve a rule or rule amendment. The EPC staff requests that the Board approve holding a rule amendment public hearing at its January 2007 meeting.

EPC staff has reviewed its Air Pollution Rule Chapter 1-3 and determined that amendments should be made to update the rule in accordance with the Specific Operating Agreement between the EPC and the Florida Department of Environmental Protection (FDEP). The rule amendment will provide for the incorporation of FDEP Air Pollution rule changes into Chapter 1-3. The proposed rule updates will be provided in the January agenda packet and fully discussed at the January EPC Board meeting in a public hearing. The staff will issue appropriate notices of the rule adoption process.

**List of Attachments:**    None.



## EPC Agenda Item Cover Sheet

**Date of EPC Meeting:** December 14, 2006

**Subject:** Citizens Environmental Advisory Committee - Discussion

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

**Division:** Legal Department

**Recommendation:** Information only, no action required.

**Brief Summary:** The General Counsel will briefly review the Citizens Environmental Advisory Committee (CEAC) Bylaws with the Commission and discuss the current appointees of each Commissioner and the options for appointments for the recently elected Commissioners.

**List of Attachments:** List of current CEAC appointees



## EPC Agenda Item Cover Sheet

**Date of EPC Meeting:** November 16, 2006

**Subject:** Establish an EPC Legal Contingency Fund

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

**Division:** Finance and Administration

**Recommendation:** Authorize staff to work with County Budget Director to prepare a budget amendment and present it to BOCC for approval to establish a \$200,000 EPC Legal Contingency Fund.

**Brief Summary:** EPC requests authority to establish a fund for the purpose of procuring the services of outside legal counsel and expert witness fees.

**Background:**

In the past, whenever EPC has required the need for outside attorney fees and expert witnesses, we have been assisted by the County Attorney who has allowed EPC to access the County Attorney's contingency fund. It has been determined that the fund is not adequate to fund the projected requirements of both the EPC and County Attorney for FY07. EPC discussed the matter with the County Budget Director and it has been recommended that a separate fund be established for EPC to address the need for outside legal counsel and expert witnesses for litigation purposes. Mr. Eric Johnson, County Budget Director will attend the EPC Board meeting to address any issues raised by the Board members.



EPC Agenda Item Cover Sheet

**Date of EPC Meeting:** November 16, 2006

**Subject:** Tamp Port Authority delegation of Minor Works Permitting

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

**Division:** Wetland Management Division

**Recommendation:** [Direct the Executive Director to continue delegation negotiations with the Tampa Port Authority]

**Brief Summary:** The staffs of the EPC and the Tampa Port Authority (TPA) are currently discussing the delegation of certain TPA Minor Works Permitting to the EPC. It is the intent of both staff to create a consolidated residential development reviews essentially into one agency, and eliminate confusion and create a more efficient streamlined permit for the citizens of Hillsborough County.

**Background:** The Tampa Port Authority (TPA) has marine construction permitting authority pursuant to Section 25 of the TPA's Enabling Act (Chapter 95-488, Laws of Florida). Within Section 25, certain activities may be authorized as minor work permits through conformity with the TPA's Submerged Lands Management Rules. Since early this year, the TPA staff has been discussing the concept of transferring the authority for issuance of minor work permits with the Environmental Protection Commission (EPC) of Hillsborough County. EPC is already intrinsically involved in the TPA permit review process, issuing comments and conditions for each application. EPC also issues construction authorizations on County freshwater lakes that the TPA does not exert jurisdiction and transferring minor work permitting authority to EPC would create a "one stop" permitting process that would increase efficiency, consolidate residential development reviews essentially into one agency, and eliminate confusion as to the responsible governmental agency for permitting (residential) minor work activities.

The negotiations include the crafting of an interlocal agreement between the EPC and the TPA. The agreement would address such issues as identifying a trial period during which time the TPA would provide funding of an Environmental Scientist II position, joint training of staff, a fee study and cost analysis to be conducted by the EPC during the trial period and other technical aspects of the delegation.

The TPA Board provided approval during their October meeting for continued discussions and negotiations with EPC and a Public Workshop was hosted by the TPA on November 9, 2006. The final terms of the Interlocal Agreement will be brought to the Boards of the TPA and EPC for final approval after the appropriate workshop and public hearing.

**RECOMMENDATION:**

Direct the Executive Director to negotiate an Interlocal Agreement with the Tampa Port Authority based on the terms set forth above, subject to review by a public workshop, public hearing and final Board approval.



## EPC Agenda Item Cover Sheet

**Date of EPC Meeting:** December 14, 2006

**Subject:** Proposed minimum flow for the lower Hillsborough River

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

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

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

**Brief Summary:** On Aug. 31, 2006, SWFWMD staff released a draft report proposing an updated minimum flow for the lower Hillsborough River. The draft report will now be submitted to a SWFWMD-funded peer review panel, which will provide its findings and recommendations to the SWFWMD Governing Board in late winter or early spring. The SWFWMD Board will then make a decision on the proposed minimum flow which, if approved by the Board, will take the form of an agency rulemaking action. EPC staff have several concerns regarding the proposed minimum flow, which have been transmitted to SWFWMD staff and the peer review panel. Those concerns are summarized in the attachments to this agenda item.

### **Background:**

As part of a legally-mandated "recovery strategy" for the lower Hillsborough River, Southwest Florida Water Management District (SWFWMD) staff have proposed an updated minimum flow for the portion of the river downstream from the City of Tampa dam.

EPC staff have several technical concerns regarding the proposed minimum flow, which have been transmitted to SWFWMD staff in correspondence dated Oct. 25, 2006 and Nov. 14, 2006. These concerns include, but are not limited to, the following:

- The proposed minimum flow would apparently allow the continuation of depressed dissolved oxygen levels (< 4-5 mg/L) and elevated salinity levels (>0.5 ppt) that, taken together, will prevent the maintenance of a healthy and well-balanced tidal freshwater biota in the lower river.
- Based on an analysis of EPC monitoring data, it appears that a minimum flow greater than 30 cubic feet per second (cfs) will probably be needed during warmer parts of the year (e.g., April through October) in order to meet the State's existing DO standard (5 mg/L) in the river segment located immediately downstream from the dam. (This is because oxygen is less soluble in water at higher temperatures.) It appears that the District's proposed MFL – which calls for the "equivalent of 20 cfs of fresh water" to be discharged downstream from the dam – would not allow the State's existing DO standard to be met during the months of April through October, when water temperatures in the area are typically greater than 70 °F.
- The proposed minimum flow does not attempt to meet the dissolved oxygen or salinity goals that were recommended for the lower Hillsborough River by the Minimum Flows Advisory Group, which was convened by the Tampa Bay Estuary Program (TBEP) in 1996. The advisory group was convened by the TBEP at the District's request, in order to identify appropriate ecological goals or criteria that should be met in the lower Hillsborough River through the MFL process. It is not clear why District staff elected to disregard the advisory group's recommendations during the preparation of the proposed MFL.

**Attachments:** Correspondence to SWFWMD staff dated October 25, 2006 and November 14, 2006



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.

October 25, 2006

Dr. Marty Kelly  
Southwest Florida Water Management District  
2379 Broad Street  
Brooksville, FL 34609-6899

Re: Proposed Minimum Flow for the lower Hillsborough River

Dear Dr. Kelly:

Thank you for providing EPC staff the opportunity to review the minimum flow that District staff proposed for the lower Hillsborough River in the draft report dated August 31, 2006. We appreciate the difficulty of the task the District has been assigned through the MFL process, and realize that you are seeking to balance the many – and often competing – demands that are being placed on the region's surface and ground water resources.

A detailed summary of EPC staff comments and recommendations on the proposed minimum flow for the lower Hillsborough River will be mailed separately. Briefly, in preparation for tomorrow's meeting at your office, some of the general questions that have been raised by staff to date include:

- The proposed minimum flow would apparently allow the continuation of depressed dissolved oxygen levels (< 4-5 mg/L) and elevated salinity levels (>0.5 ppt) that, taken together, will prevent the maintenance of a healthy and well-balanced tidal freshwater biota in the lower river. Does the loss of the tidal freshwater habitat type and its associated biota from the lower Hillsborough River represent "significant harm" to the ecology of the area, contrary to the requirements of Chapter 373.042 Florida Statutes?
- Based on an analysis of monthly monitoring data from EPC station 105 (Hillsborough River at Rowlett Park Drive), it appears to us that a minimum flow of 30 cfs to 40 cfs – with the higher flows needed during periods of higher water temperature – would be sufficient under most conditions to meet the State's existing freshwater DO standard (5 mg/L) in the river segment located immediately downstream from the dam. The District's currently-proposed MFL – which calls for the "equivalent of 20 cfs of fresh water" – would apparently not allow the existing DO standard to be met under most conditions. Does the failure of the proposed MFL to support compliance with an existing water quality standard represent "significant harm" to the ecology of the area, contrary to the requirements of Chapter 373.042 Florida Statutes?
- The proposed minimum flow does not attempt to meet the dissolved oxygen or salinity goals that were recommended for the lower Hillsborough River by the Minimum Flows Advisory Group, which was convened by the Tampa Bay Estuary Program (TBEP) in 1996. The advisory group was convened by the TBEP at the District's request, in order to identify appropriate ecological goals or criteria that should be met in the lower Hillsborough River through the MFL process. Why have District staff elected not to incorporate the advisory group's recommendations in the minimum flow that is proposed in the August 2006 report?

Dr. Marty Kelly  
October 25, 2006  
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- The proposed minimum flow does not address the long-term declines in annual mean discharge which have occurred in the lower Hillsborough River since the early 1960s. A U.S. Geological Survey report published in 1996, for example, reported a decline in annual mean discharge of approximately 0.3 cfs per year during the period April 1939 through March 1992. In a case such as this, does Sect. 40D.8 FAC require District staff to consider and propose a recovery strategy to address the long-term decline in freshwater discharge to the lower river?
- On a related issue, the proposed minimum flow allows for a "seasonally adjusted minimum flow" that provides for reducing the minimum flow proportional to a decline in flow as measured at the Zephyrhills gage. The median of the annual 90% exceedance flow at that gage for the decade of the 1990's (or 58 cfs) is proposed as the starting point for that adjustment. The report states that the availability of water to make up the minimum flow is the factor that drives the need for the "adjustment". In a case such as this, does Sect. 40D.8 FAC require District staff to consider and propose a recovery strategy to address availability of water to make up the minimum flow?"
- The draft report appears to include a disproportionate allowance for existing water use as a determining factor in the development of the proposed minimum flow. Is this approach consistent with Sect. 40D.8, FAC?

In 2004, EPC staff wrote to encourage the District to use a watershed-based approach in developing minimum flows for the Hillsborough River system. We continue to support that approach, which would require that the proposed minimum flows for the upper Hillsborough River, the lower Hillsborough River, the Tampa Bypass Canal, and Sulphur Springs be reviewed concurrently by the local technical community and the District's governing board. In my opinion, a watershed-based approach of this type would increase the technical rigor of the MFL process and make the overall water resource management process more transparent for citizens and policymakers, thereby providing benefits to the District and the region.

I understand that District staff have received Governing Board approval to distribute the proposed minimum flow for the lower Hillsborough River to a District-sponsored peer review panel. EPC staff support that action, and request that our questions, comments and recommendations be provided to the review panel as well.

If you would like to discuss these issues in more detail, please call me at 813-627-2600 x1025.

Sincerely,



Gerold Morrison, Ph.D.  
Director, Environmental Resources Management Division

cc: Richard Eckenrod, TBEP  
Bart Weiss, Hillsborough County Water Resource Team

COMMISSION  
Brian Blair  
Kathy Castor  
Keri 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):  
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Executive Director  
Richard D. Garrity, Ph.D.

November 14, 2006

Dr. Martin H. Kelly  
Southwest Florida Water Management District  
2379 Broad Street  
Brooksville, FL 34609-6899

Re: Proposed Minimum Flows for the lower Hillsborough River

Dear Dr. Kelly:

Thank you once again for providing EPC staff the opportunity to review the minimum flows that District staff proposed, in a draft report dated August 31, 2006, for the lower Hillsborough River. As a follow-up to the general comments I sent you on October 25, detailed review comments from EPC staff on the draft report and the proposed minimum flows are attached.

In addition to the attached comments, I would like to offer some general observations regarding the proposed minimum flows:

1. During 1996-1997, the Tampa Bay Estuary Program (TBEP), at the request of the District, convened a minimum flow advisory group that was asked to "provide technically sound recommendations to SWFWMD staff for identifying and evaluating the water resources and ecological criteria necessary to establish minimum flows on the Hillsborough River downstream of the dam." On July 10, 1997, the advisory group's recommendations were forwarded to the District. Regarding salinity conditions that should be maintained through the District's MFL process, the group recommended:
  - a. Maintain a salinity gradient from the estuary to the dam ranging from polyhaline (>18 ppt) to fresh (<0.5 ppt), to optimize estuarine fish utilization; and
  - b. Maintain a freshwater segment (<0.5 ppt) below the dam to provide a refuge for freshwater biota.
2. Regarding the dissolved oxygen (DO) levels that should be maintained through the District's MFL process, the group recommended that the District should:

Define ecological criteria or goals for dissolved oxygen concentrations in the Hillsborough River as a minimum of 4.0 mg/L and average of 5.0 mg/L for optimizing fish utilization. If these criteria cannot be feasibly met at all times and in all locations, minimize time and areas in the river where dissolved oxygen is less than 4.0 mg/L.

The minimum flows proposed in the District's August 31, 2006, report do not appear to be consistent with either of these recommendations.

With respect to salinity, the goal that is stated in the District's report is "to provide a minimum flow that would extend a salinity range of <5 ppt from the Hillsborough Reservoir Dam toward Sulphur Springs." The report gives no indication that the proposed minimum flow would be sufficient to maintain a freshwater (<0.5 ppt) zone immediately downstream from the dam under a range of tidal conditions. It also gives no indication that whatever

Dr. Martin H. Kelly  
November 14, 2006  
Page 2

freshwater zone is maintained in the area under minimum flow conditions would be of adequate size to serve as an effective refuge for freshwater biota.

With respect to DO, the District's August 2006 report implies that a DO concentration  $> 2.5$  mg/L should be accepted by the local technical community as an adequate level for resource management purposes in the lower Hillsborough River. The report gives no indication that the proposed minimum flows would provide the DO concentrations in the 4.0 – 5.0 mg/L range that were recommended by the advisory group in 1997.

EPC staff view these inconsistencies with the advisory group's recommendations as significant deficiencies in the proposed minimum flows.

On a related note, in 2004 EPC staff wrote to encourage the District to use a watershed-based approach in developing minimum flows for the Hillsborough River system. We would like to recommend once again that minimum flows for the lower Hillsborough River, Sulphur Springs and the Tampa Bypass Canal/Palm River be reviewed concurrently by the local technical community and the District's Governing Board. The technical information and organizational structure to accomplish this is already in place. District staff have recently released draft minimum flow recommendations for the Lower Hillsborough River, Sulphur Springs and the Tampa Bypass Canal/Palm River. These three systems are connected by manmade canals and pipelines, and are hydrologically linked to each another and to flow from the upper Hillsborough River system. Changes proposed by minimum flow regulations on any one of these systems will potentially have hydrologic and ecological impacts on the others. Ideally, EPC staff would prefer that a concurrent evaluation of minimum flows for the upper Hillsborough River also be included in the watershed-based approach. At a minimum, however, we would strongly recommend that the lower Hillsborough River, Sulphur Springs, and the TBC/Palm River be evaluated together as a hydrologically-interconnected unit.

When setting these minimum flows, EPC staff would recommend that the District seek to mimic the river's natural flow regime as closely as possible. This was listed as a key flow-related river management goal by the Instream Flow Council in 2002, and was endorsed by the National Research Council in its 2005 review of the State of Texas' instream flow program. It also appears to be an appropriate resource management goal for minimum flows that are established for west-central Florida rivers.

On a final note, I understand that on September 26, 2006, District staff received Governing Board approval to distribute the draft minimum flows report to a District-sponsored peer review panel. During that meeting several Governing Board members indicated that technical comments from EPC staff should be provided to the review panel as well. District staff concurred with that Board suggestion. Please forward this letter and the attached comments to the peer review panel members for their consideration during the review process.

If you or members of the peer review panel would like to discuss the EPC staff comments and recommendations in greater detail, please feel free to call me at (813) 627-2600 x1025.

Sincerely,



Gerold Morrison, Ph.D.

Director, Environmental Resources Management Division

cc: Bart Weiss, Hillsborough County Water Resource Team

EPC staff comments on SWFWMD report: "Lower Hillsborough River low flow study results and minimum flow recommendation" (draft, August 31, 2006)

#### Executive Summary

Pg. iv. The report states: "...maintaining an essentially permanent area of the lower river with a salinity of < 5 ppt would provide habitat for those predominantly oligohaline and fresh water species...". EPC staff disagree with the generalization that an area of <5 ppt salinity, of undefined spatial extent, would necessarily provide an ecologically-meaningful amount of habitat for fresh water fish or invertebrate species.

Pg. iv. The report states: "The creation of a < 5 ppt salinity zone was chosen as the principal criterion on which to establish minimum flows for the LHR." EPC staff question the appropriateness of this criterion, as it appears to be inadequate to address the primary objective of the MFL program, which is to safeguard the resource from significant harm. It also ignores the State of Florida's established water quality standards for parameters such as dissolved oxygen.

Pg. iv. The report states: "Improvements in dissolved oxygen (DO) concentrations are generally apparent nearer the dam with increasing flow, but in a much less predictable manner than for salinity. There is evidence that increasing flows in order to improve dissolved oxygen levels nearer the dam may actually depress oxygen levels farther downstream. Thus, freshwater inflows cannot be used as a general mechanism for mitigating the overall dissolved oxygen deficit throughout the lower river."

EPC staff question the general validity of these statements. Regression analyses we have performed indicate that, at flows ranging between 1 cfs and 100 cfs, near-bottom DO concentrations at the long-term EPC monitoring station (sta. 105) located immediately downstream from the dam are significantly correlated with changes in flow and water temperature. Based upon monthly EPC monitoring data from the years 1974 through 1991, and stepwise OLS regression, the underlying relationship between DO, flow and water temperature at this location appears to be:

$$\ln(\text{near-bottom DO}) = 4.6193 - 1.1529(\ln[T]) + 0.2206(\ln[Q]) \quad (R^2=0.69, p<0.0001)$$

Where T = near-bottom water temperature (°C) and  
Q = daily mean flow (cfs) at the Hillsborough River dam.

In contrast, monthly data from two EPC monitoring stations located farther downstream do not exhibit statistically significant relationships between flow and DO in the range of flows (e.g., flows between 1 and 100 cfs) that are being considered in the District's proposed minimum flow.

In addition, hypoxic episodes in the lower river are likely related to a number of factors that are not directly attributable to flow, such as elevated BOD and SOD levels contributed by stormwater discharges. Heightened enforcement of stormwater management regulations and implementation of TMDLs should help to address this issue. These points need to be recognized, and the statement in the report revised to reflect this information.

Pg. v. The report states: "The LHR Minimum Flow management goal is: To provide a minimum flow that would extend a salinity range of < 5 ppt from the Hillsborough Reservoir Dam toward Sulphur Springs." EPC staff feel that this represents an inappropriate management goal. EPC staff recommend that a more appropriate management goal may be derived by referencing the recommendations originally made by the Minimum Flow Advisory Group in 1997.

Pg. v. The report states: "The highly urbanized nature of the entire LHR watershed and the virtual absence of upland or floodplain area available for any significant ecological enhancement or restoration restrict biological considerations to the river channel itself." This statement is incorrect, is contradicted by earlier studies, and is inconsistent with statements made on pg. iv, and within Chapter 3 of the report itself. A number of studies (e.g., Water and Air Research 1993, 1994, 1995) have documented the presence of

substantial shoreline habitat and potential (restorable) habitat in the lower Hillsborough River. EPC staff recommend that the statement be struck from the report.

Pg. vi. The report states that the proposed minimum flow allows for a “seasonally adjusted minimum flow” that provides for reducing the minimum flow proportional to a decline in flow as measured at the Zephyrhills gage. The median of the annual 90% exceedance flow at that gage for the decade of the 1990’s (58 cfs) is proposed as the starting point for that adjustment. The report fails to document historical or recent statistical relationships between flow at this gage and flow in the lower Hillsborough River, and states that it is the availability of water to make up the minimum flow that drives the need for the “adjustment”. Considering that qualifier, this is not a “seasonally adjusted” flow, but rather a “water supply availability” adjusted flow, and should be so identified. In a case such as this, does Sect. 40D8 FAC require District staff to consider and propose a recovery strategy to address availability of water to make up the minimum flow? Moreover, if the general trend of baseflow reductions in the upper river continues, is there not the risk that a value of 58 cfs, which represented a P90 for the decade of the 1990s, could become a P75 or even a P50 for the decade of the 2010s? Would this lead to extensive application of the “adjusted” minimum flow, well beyond the minimal use foreseen in the draft document?

#### Chapter 2

Pg. 23. Figure 2-17 should be updated to indicate that Tampa Bay Water’s TBC Pumping Station as no longer “proposed”. The figure should also be revised to properly align withdrawal structures from the Middle and Lower Pools to the TBC Pumping Station and to identify the reservoir as the “City of Tampa Reservoir” rather than the “Hillsborough Reservoir”.

#### Chapter 4

Pg. 42. The report states: “Winter water temperatures are slightly warmer at I-275 due to the discharge of isothermal waters from Sulphur Springs (SWFWMD 2004b). Water temperatures fell below 15° C during only one year at I-275, but in all six years of record at Rowlett Park.” This brief paragraph fails to identify the importance of the Sulphur Springs discharge in providing a warm-water refuge for the Florida manatee during winter months. As is clear throughout the draft report, SWFWMD staff anticipate that Sulphur Springs discharge will provide a large (if not the largest) component of the lower Hillsborough River minimum flow. It is not clear that the proposed minimum flow, whose impacts on winter temperature regimes in the vicinity of Sulphur Springs are not addressed in the report, will be adequate to maintain a warm-water winter refuge for manatees in that portion of the river. A watershed-based approach to minimum flow development, in which the proposed minimum flows for the lower Hillsborough River, Sulphur Springs and the TBC/Palm River system are considered simultaneously, would help to address this shortcoming.

#### Chapter 5

Pg. 51, Sect. 5.2.1.1 (Taxonomic Composition). The report provides a ranking of numerically dominant species of macroinvertebrates. EPC staff request that the District also provide information on trophic aspects of the macroinvertebrate community. For example, do any of the larval dipterans or other species currently present represent forage for recreational or economically valuable fish? Would changes in the proposed minimum flow change such relationships?

Pg. 59, Sect. 5.2.1.5 (Hypoxia and Benthos). This section provides no quantitative analysis of impacts of hypoxia on benthic communities in the lower Hillsborough River. However, it concludes with the statement: “...studies suggest that, with no discharge from the reservoir, hypoxia contributes to the impoverished benthos immediately downstream of the dam...”. From a resource management perspective, this is an important point in selecting minimum flows that will protect the designated uses of this river reach.

Pg. 64, Sect. 5.2.3 (Community Structure Analysis). The report states: “The approach initially involves establishment of a data matrix of salinities (in 1 ppt increments) and taxa preference.” EPC staff request

clarification of the selection of the ranges of the four zones identified, those being Zone 1, with a range of 0-5 ppt (5-unit increment), Zone 2, with a range of 6-16 ppt (10-unit increment), Zone 3, with a range of 17-28 ppt (11-unit increment) and Zone 4, with a range of 29-31 ppt (2-unit increment). Seemingly, the low salinity zone is not adequately differentiated, while the higher salinity zone appears overly represented. In addition, given that salinities of 29-31 ppt have rarely, if ever, been recorded in the upper reaches of the lower Hillsborough River, of what relevance is this range?

Pg. 89-90, Sect. 5.3.2.5 (Relationship with Hypoxia). This section of the report relies on simple visual examination of scatterplots of mean fish abundance and mean species richness vs. mean DO concentrations in sampled areas within the lower river. EPC staff feel that the information provided does not provide a thorough technical analysis of the effects of hypoxia on fish community structure in the area. As a result, we would recommend that it not be relied upon as the basis for setting resource-based goals for minimum flows in this river segment.

Pg. 92, Sect. 5.3.3 (Community Structure Analysis). Although the report bases the analysis of fish community structure on Bulger's (1993) study in which PCA analysis is used to relate generalized salinity classes to species composition, the report itself appears to place restrictions on the results by excluding "rare pseudospecies" (i.e. group abundance <30 individuals) and choosing arbitrary "pseudospecies" size classes. In addition, recent advances in multivariate analysis have employed the use of multidimensional scaling in conjunction with PCA and hierarchical clustering to discern species composition groupings (Clarke and Warwick 2001). It would appear that a combination of these techniques in conjunction with the SIMPER analysis referenced would be more effective in discerning "whole community" breakpoints in salinity classes of species groups, rather than relying on a highly restricted PCA analysis. Furthermore, work performed by the FWRI (Greenwood, MS submitted to Estuaries and Coasts) indicates that changes in species composition along the estuarine salinity gradient in Tampa Bay are most pronounced at the "edges" of salinity change. In essence, the greatest species composition changes occurred within the 0-2 ppt range and the 30-36 ppt range. The proposed minimum flow does not address the 0-2 ppt salinity range.

## Chapter 6

Pg. 100-109, Sect. 6.1.1.2 (Controlled Release Experiments). The report alludes to "environmental influences that were acting during each experiment" (p. 109). It should be noted that strong tidal influences (e.g. spring tides) were present and added an uncontrolled confounding factor to these experiments. Analysis of the data from the controlled release experiments, and conclusions drawn from those analyses, should explicitly reflect the presence of this confounding factor.

Pg. 109-127, Sect. 6.1.2 (Dissolved Oxygen Empirical Analysis). Several of the low DO bottom acreage estimates (shown in Figures 6-23, 6-27, 6-31) employ a unique averaging scheme (average of the 5 different percentile depth probability estimates) to determine acres of river bottom in each river kilometer group that are expected to have low DO conditions under varying flows. No justification for this averaging method is provided, other than the statement that the graphics represent joint probabilities over time and space. It is not clear that the method provides an accurate representation of the effects of flow on bottom DO.

Pg. 140, Sect. 6.2. (Simulation Modeling Relating Flow and Salinity). This section provides an incomplete description of the selected model and its underlying assumptions. For example, the entire discussion of the baseline is limited to a single bullet item on page 140, stating "*Baseline - no minimum flow.*" Given the importance of the baseline in subsequent analyses presented in Chapter 7, such a cursory description is not helpful. Furthermore, key assumptions concerning boundary conditions or river water volumes under various scenarios are left unexplained. Seasonal and daily fluctuations of historical data, presented earlier in the report, indicate that boundary conditions and river volumes are prone to substantial changes under various MFL scenarios.

## Chapter 7

Pgs. 151-183, Sect. 7.0 (Application of Modeling Results to Evaluate a Range of Possible Minimum Flows). Chapter 7 presents an evaluation of a series of minimum flow scenarios through numerous cumulative distribution functions (CDF) and bar graphs. EPC staff review indicates the presented CDFs and associated bar graphs suffer from a number of fundamental deficiencies, such as:

- The CDFs and associated bar graphs are computed based on percentages of “MFL Days.” The narrative, however, fails to explain this fundamental component of the analysis. In fact, “MFL Days” must be clearly defined and concisely quantified before a complete evaluation can be performed. Do “MFL Days” represent an average of what would be “no-flow days”, where the 10 cfs MFL would be applied? If this interpretation is correct, how are “Non MFL Days” defined and quantified? The report states that simulations were “*applied only to the important subset of days when the flow over the Hillsborough River Dam was less than 40 cfs*” (Pg 152). Does this then define “MFL Days” as any day with cumulative flow over the dam of less than 40 cfs? During what period of record was the simulation run? How many days are represented as “MFL Days” under each scenario?
- The CDFs and associated bar graphs rely on “baseline” scenarios as their benchmarks. Unfortunately, similar to the case of “MFL Days”, the narrative fails to provide a clear definition of the baseline. The only reference appears in Section 6.2 (page 138), which simply states “*Baseline – no minimum flow.*” Review of CDFs in Chapter 7 (e.g. Figure 7-11 on page 160) indicates that Baselines are clearly associated with river conditions during which the vast majority of the investigated volumes had elevated salinities. What is the quantitative basis for such baselines? Are they developed based on actual historical data? What are the river volume changes under various baseline conditions?
- Although the CDFs and associated bar graphs are intended to evaluate minimum flow scenarios, all volumes and durations are presented as percentages. This is problematic, when considering that total volumes may change in each scenario, while “MFL Days” have remained undefined. Such an approach is inconsistent with the fact that ecological criteria are driven by the actual magnitudes of volumes and durations, not percentages. For example, 40% of a large volume lasting over a substantial number of days can be far more meaningful, ecologically, than 90% of a small volume over a short period of time.
- Another issue is related to CDFs for various reaches of the river, including “Hillsborough River Dam to Sulphur Springs,” “Hillsborough River Dam to Hannah’s Whirl,” and “Hillsborough River Dam to Rowlett Park/Drive.” How are these reaches treated in the CDF calculation process? Results (e.g. Figure 7-13) indicate that the most-upstream segment (i.e. Hillsborough River Dam to Rowlett Park/Drive) is easily mitigated by even the most moderate minimum flow scenarios. Inclusion of such a segment in subsequent analyses can mask the profound impacts of higher minimum flows on mitigating salinity further downstream to Sulphur Springs and beyond. Moreover, by confining the analysis to the above-cited river reaches, the improvements caused by the higher minimum flows further downstream are truncated. LAMFE results depicted in Figures 6-63 and 6-64 appear to substantiate impacts on low salinity volumes to locations as far downstream as river KM 11.8 and 10.8, or in linear distances, an additional 1,200 meters and 2,200 meters downstream of Sulphur Springs, respectively.

Until the above deficiencies are adequately addressed, EPC staff feel that the resulting CDFs and associated bar graphs cannot be viewed as reliable tools for the evaluation of various minimum flow scenarios.

Pg. 169. Here, the report presents a differential approach “*to better quantify the difference between various [minimum flow] scenarios.*” For this purpose, the incremental improvement between any two scenarios, including the baseline, are computed as the ratio of the difference in areas under their corresponding CDFs to the difference in their freshwater flows. In subsequent analyses (Figures 7-26 through 7-28), the freshwater flows corresponding to maximum incremental improvements are identified as optimal minimum



flows. This optimization approach, however, is inconsistent with the ecological criteria that are the main drivers of this MFL exercise.

As noted, ecological criteria are driven by the actual magnitudes of volumes and durations. The above differential approach is based on the optimization of the derivative of the product of the relative volume and relative duration. Such an approach neither maximizes the volume of low-salinity water or its duration, nor ensures meeting any desired ecological criterion. Using elementary calculus notations, if the criterion is  $y$ , the objective should be to maximize  $y$ , which occurs when  $y'=0$ . Unfortunately, the proposed approach attempts to maximize  $y'$ , instead of  $y$ , and thus, is a mathematically invalid procedure to evaluate minimum flow scenarios.

Pg. 160. Given that the District's stated LHR minimum flow management goal is "to provide a minimum flow that would extend a salinity range of < 5ppt from the Hillsborough Reservoir Dam toward Sulphur Springs" (pg. v), EPC staff interpretation of Figure 7-11 indicates that a minimum flow of 20 cfs is inadequate to meet that goal. According to Figure 7-11, at a minimum flow of 20 cfs, less than 50% of the total area from the dam to Sulphur Springs would register a salinity less than 5 ppt 50% of the time. In comparison, at a minimum flow of 40 cfs, 82% of the total area from the dam to Sulphur Springs would register a salinity less than 5 ppt 50% of the time. The higher minimum flow would appear to be more consistent with a successful attainment of the District's stated management goal.

Pg. 171, Sect. 7.1.2 (Comparison of Simulation Model Results: Sulphur Springs Diversion Scenarios). This section presents a number of CDFs and associated bar graphs for various Sulphur Spring diversion and freshwater minimum flow scenarios. These analyses suffer from the same deficiencies that were noted in the comment above regarding Section 7.1.1. Furthermore, the vague conclusions stated on Pg. 177 appear to imply that continuous diversions of poor-quality water from Sulphur Spring are somehow beneficial. Such a conclusion does not seem to be consistent with the earlier finding on Pg. 71, which stated "*that none of the Sulphur Springs diversions evaluated would achieve the same level of benefit as that provided by an equivalent amount of freshwater.*"

## Chapter 8

Pg. 191-192 (Seasonally Adjusted Minimum Flow). The proposed MFL allows for a "seasonally adjusted minimum flow" that provides for reducing the minimum flow proportional to a decline in flow as measured at the Zephyrhills gage. The median of the annual 90% exceedance flow at that gage for the decade of the 1990's (or 58 cfs) is proposed as the starting point for that adjustment. Table 8-1 provides the range of adjusted minimum flows. The report states that the availability of water to make up the minimum flow is the factor that drives the need for the adjustment. EPC staff would note that water supply is not a relevant factor in determining minimum flows, nor would it seem allowable under applicable Florida statutes and rules. Additionally, the report provides no data indicating that the Zephyrhills gage is representative of total freshwater flow to the lower Hillsborough River. Table 8-1 ranges to a minimum flow of 10 cfs, which the draft report has already indicated as inadequate. Finally, it would appear that an adjustment of minimum flow resultant from water supply shortage would lower minimum flow to the river at the time of the season it would be most critical to sustain an adequate minimum flow.