

**ENVIRONMENTAL PROTECTION COMMISSION
OF HILLSBOROUGH COUNTY
COMMISSIONER'S BOARD ROOM
JULY 17, 1997
9 AM - 12 NOON**

AGENDA

I. PRESENTATION (9AM)

Medfly Status Report - USDA/EPA

II. PUBLIC HEARING (10AM)

Consider Amendment to Chapter 1-2, Relating to Administrative Procedures 1

III. CONSENT AGENDA

- A. Approval of Minutes: None
- B. Monthly Activity Reports 14
- C. Legal Department Monthly Reports 33
- D. Pollution Recovery Trust Fund 36
- E. Gardinier Settlement Fund 37

IV. CITIZEN'S ADVISORY COMMITTEE

Items of Interest

V. WASTE MANAGEMENT DIVISION

Update - Cone Road Land Fill

VI. WATER MANAGEMENT DIVISION

Tampa Water Resource Recovery Project

VII. EXECUTIVE DIRECTOR

Request Authority for Chairman to Negotiate Agreement With Executive Director

VIII. COMMISSIONER'S REQUESTS

Issue: Discussion of EPC Board Make Up (Comm. Chillura) 38

IX. CITIZEN'S WISHING TO APPEAR

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.

ENVIRONMENTAL PROTECTION COMMISSION
CHAPTER 1-2
ADMINISTRATIVE PROCEDURES RULE

AN ACT AMENDING CHAPTER 1-2 OF THE RULES OF THE ENVIRONMENTAL PROTECTION COMMISSION, RELATING TO THE ADMINISTRATIVE PROCEDURES FOR APPEALING ACTIONS AND DECISIONS OF THE EXECUTIVE DIRECTOR; PROVIDING FOR INTENT, DOCUMENTS, LEGAL REPRESENTATION, DISCOVERY, OPTIONS FOR ADMINISTRATIVE REVIEW AND REQUESTS FOR DECISION OF THE DIRECTOR; PROVIDING FOR PETITIONS INVOKING SEVERAL PROCEDURAL PROCESSES; PROVIDING FOR APPOINTMENT OF HEARING OFFICERS, MEDIATORS AND SPECIAL MASTERS; PROVIDING FOR JUDICIAL REVIEW; PROVIDING FOR PRE-APPLICATION MEETINGS, REQUESTS FOR MEDIATION, AND MEDIATION PROCESS; PROVIDING FOR HEARINGS TO DETERMINE ESTOPPEL; PROVIDING ADMINISTRATIVE REVIEW, FILING, SERVICE, PROCESS BEFORE A HEARING OFFICER, ADMINISTRATIVE HEARING, REPORT AND RECOMMENDATION, EXCEPTIONS AND FINAL ORDER; PROVIDING FOR APPEAL OF A PERMITTING DECISION PURSUANT TO DELEGATION; PROVIDING FOR REQUESTS FOR VARIANCE OR WAIVER; PROVIDING FOR CLAIMS UNDER THE PRIVATE PROPERTY RIGHTS ACT AND DISPUTE RESOLUTION; AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the Environmental Protection Commission of Hillsborough County is empowered by Chapter 84-446, Laws of Florida, as amended (Act), to adopt and amend from time to time rules to provide for the implementation, effective enforcement, administration and interpretation of the Act,

WHEREAS, the Commission determines it to be reasonably necessary for the effective implementation of Chapter 84-446, Laws of Florida, to amend and update its rule relating to administrative procedures, and

WHEREAS, the Commission published due notice of its intent to consider adoption of amendments to its Administrative Procedures Rule, Chapter 1-2, in Hillsborough County,

NOW, THEREFORE, the Environmental Protection Commission of Hillsborough County, in regular public meeting this ____ day of _____, 1997, enacts the following:

Section 1. Chapter 1-2, Rules of the Environmental Protection Commission, is amended to read as follows:

CHAPTER 1-2
GENERAL PROVISIONS APPLICABLE TO ALL PARTS

1-2.00 INTENT

It is the Commission's intent to encourage non-adversarial resolution of disputes whenever possible, and to facilitate prompt and efficient solutions for the protection of the environment. It is recognized that diverse environmental concerns and coordinating mechanisms between agencies, federal, state, regional and local, require and provide differing procedures for dispute resolution that in themselves can cause confusion. The following rule attempts to identify the available processes and clarify the procedures for their application.

1-2.01 DOCUMENTS

1. All documents filed pursuant to the procedures in this rule shall contain the name of the person filing, his address and telephone number, his signature, the file number to which the request applies if any, and a certificate of service attesting to having simultaneously provided copies of the document to all known parties involved in the proceeding. The Executive Director shall be served with a copy of all documents, except as may be filed pursuant to Part I below.

2. All documents received after 5 PM, including facsimile documents where permitted, shall be entered as received the following regular business day.

3. The original initiating document for all processes shall be served upon the Commission or the Executive Director as provided in each part. The original of subsequent documents shall be provided to the appropriate Hearing Officer, mediator or party.

1-2.02 LEGAL REPRESENTATION

It is not required that a party have legal counsel, although in some cases it may be advisable. It is intended that these procedures be as informal as possible, without prejudicing any party's rights, so that prompt and non-adversarial resolution can be achieved.

1-2.03 DISCOVERY

Public Records Act requests shall be processed according to the requirements of law. Any person may arrange directly with staff to view the administrative files of the agency during regular business hours. Copies will be made upon payment of cost. Each party to any of the proceedings below may avail himself of discovery at his own expense as allowed by the Rules of Civil Procedure or as permitted by the Hearing Officer or mediator.

1-2.04 OPTIONS FOR ADMINISTRATIVE REVIEW

Pre-application meeting. If a citizen is uncertain regarding the applicable regulations or requirements for compliance with environmental regulations, he may request a pre-

1 application meeting with staff as provided in Part I below.

2 **Mediation.** If a regulated entity disputes a fact or interpretation of the regulations asserted by staff,
3 it may request mediation as provided in Part I below.

4 **Estoppel Rights.** If an applicant for a permit or Director's authorization alleges that EPC is
5 estopped from taking a certain position in a matter because of a prior act of the EPC, he
6 may request review to determine applicability of estoppel as provided in Part II below.

7 **84-446 Appeal.** If a regulated entity challenges the correctness of a decision or order of the
8 Executive Director issued pursuant to Chapter 84-446 and the rules adopted thereunder, it
9 may file an appeal for administrative hearing pursuant to Part III below.

10 **Appeal under delegated program.** If a regulated entity challenges the correctness of a permit
11 decision or order of the Executive Director issued pursuant to delegation from the
12 Department of Environmental Protection or Water Management District, it may file a
13 Chapter 120 appeal as provided in Part IV below.

14 **Variance or Waiver.** If a regulated entity seeks a variance or waiver from existing regulations
15 and can demonstrate that the purpose of the regulation will otherwise be met, it may apply
16 as provided in Part V below.

17 **Private Property Rights.** If a regulated entity seeks relief as provided by Section 70.001, Florida
18 Statutes because an existing use or vested right is inordinately burdened by the application
19 of law, or that its use is unreasonably or unfairly burdened, it may request review pursuant
20 to Part VI.

21 **Dispute Resolution.** If a regulated entity seeks relief as provided by Section 70.51 Florida Statutes
22 because an enforcement action or development order unreasonably or unfairly burdens the
23 use of its land or property, it may request review pursuant to Part VI.

24
25 **1-2.05 REQUEST FOR DECISION OF THE DIRECTOR**

26 Any person denied permission to engage in proposed activity upon his property because of the application
27 of Chapter 84-446, Laws of Florida, and the rules promulgated thereby, may request a Written Decision of
28 the Director. Except where a different time is provided by another rule, the Executive Director shall issue a
29 written decision setting forth his position and reasons within 30 days of a written request therefore.

30
31 **1-2.06 PETITIONS INVOKING SEVERAL PROCEDURAL PROCESSES**

32 1. A petitioner may preserve his right to appeal under Parts III or IV by filing a notice with a
33 request to stay processing pending resolution under one of the other parts of this rule. If the petitioner or
34 EPC believes that resolution is unlikely, either party may recommence the appeal proceedings with written
35 notice of 30 days to the other party.

36 2. When a petitioner requests several separate procedures as outlined in Parts II through VI

1 below, the Legal Department will request a meeting to reach agreement as to the order and process by
2 which they will be most efficiently handled.

3
4 **1-2.07 APPOINTMENT OF HEARING OFFICERS, MEDIATORS and SPECIAL**
5 **MASTERS**

6 1. Upon recommendation of the Executive Director, EPC will appoint as many Hearing
7 Officers as needed to hear appeals pursuant to Chapter 84-446, and such other matters as designated by the
8 Commission. Except as provided in paragraphs 2 and 3., cases will be assigned to the Hearing Officers on
9 rotation and upon determination that no conflict of interest exists.

10 2. In the case of claims filed under Part II, the Hearing Officer assigned may be a Hearing
11 Officer regularly assigned by the County pursuant to Section 3.8.3.5 of the Hillsborough County Land
12 Development Code.

13 3. In the case of claims filed under Part IV, Hearing Officers will be those assigned by the
14 Division of Administrative Hearings.

15 4. Mediators will be appointed by the Executive Director as provided in Section 1-2.11.
16 Special Masters will be appointed by the Executive Director upon mutual agreement of the parties as
17 provided in Section 1-2.62.

18
19 **1-2.08 JUDICIAL REVIEW**

20 1. Any person aggrieved by the final administrative decision of the Commission pursuant to
21 Chapter 84-446 may seek judicial review by filing an appeal by Petition of Writ of Certiorari with the
22 Second District Court of Appeal.

23 2. Any person aggrieved by the final administrative decision pursuant to a delegation from the
24 Department or Water Management District may seek judicial review by filing an appeal with the Second
25 District Court of Appeal.

26
27 **PART I: Informal Process**

28 **1-2.10 PRE-APPLICATION MEETINGS**

29 Any applicant may seek assistance from EPC staff by arranging a pre-application meeting with
30 appropriate staff handling the proposed project. EPC staff will assist the applicant by explaining the type of
31 information that will be reviewed and the standards and rules which may apply. Upon request, EPC staff
32 will make every reasonable effort to include other agency staff as appropriate.

33
34 **1-2.11 REQUEST FOR MEDIATION**

35 1. Any person wishing to avail himself of mediation to resolve a perceived dispute of fact or
36 interpretation of law prior to or following a Written Decision of the Director, may do so upon written
37 request therefor to the Director. If an appropriate request is made hereunder, the following procedures shall

1 apply. This option shall not be construed to limit efforts at any time to resolve or settle decisions or
2 concerns through meetings and negotiation with appropriate staff or the Executive Director.

3 2. Mediation may consist of engaging the services of a trained mediator, with each party
4 paying for half of the cost, or may involve asking a mutually acceptable person uninvolved in the dispute to
5 listen to each side and assist in facilitating a resolution.

6 3. Unless a Notice of Appeal under Parts III or IV affirmatively states that mediation would
7 be futile, a mediation process will be attempted prior to setting an appeal with a Hearing Officer.

8 a. Upon receipt of an appeal which can not be resolved directly with staff or the Executive
9 Director, the Executive Director will forward the names of three Mediators certified by the
10 Circuit Court for the appellant's review, and appropriate information regarding cost. The
11 Executive Director shall also advise of the possibility of selecting an uninvolved person
12 acceptable to both parties to assist in dispute resolution.

13 b. If appellant does not make a selection within 5 days, the Executive Director shall schedule
14 the matter for mediation with a person of his choice.

15
16 **1-2.12 MEDIATION PROCESS**

17 1. The Mediator shall schedule a preliminary meeting with the parties within 10 days of
18 selection, and any subsequent meetings deemed advisable.

19 a. The mediation meetings shall be informal.

20 b. Statements and settlement documents made at or in preparation for any mediation meeting
21 shall not be used as evidence in any subsequent proceeding, unless agreed and signed by
22 both parties.

23 c. The purpose of any such meeting is to open communication, clarify the facts and issues in
24 dispute, identify options that may resolve all parties' concerns, and determine whether
25 resolution can be achieved by agreement.

26 d. Any party or the Mediator may request that specific persons be available at the meetings
27 to assist in the discussions. If a party refuses, the mediation may be deemed futile.

28 e. The Mediator shall control the conduct of the meetings and shall prohibit emotional
29 confrontations.

30 2. The Mediator shall first attempt to identify each of the issues in dispute. If agreement on
31 identifying the issues is reached, they shall be written and signed by the Appellant and the Executive
32 Director, and shall establish the framework for the balance of the proceeding before the Mediator.

33 3. The Mediator shall then assist the parties in identifying options for resolving each party's
34 concerns, and in reaching settlement if possible. If settlement is reached, all terms and conditions shall be
35 written and signed by the Appellant and the Executive Director and shall be binding in any subsequent
36 proceeding. If all issues in dispute are resolved, any pending appeal shall be dismissed.

37 4. Unless agreed otherwise, the costs of mediation shall be split equally between the parties.

1 by the County pursuant to Section 1-2.07(2) above, if acceptable to the Executive Director, the
2 applicant, the County, and the Hearing Officer.

3 6. Notwithstanding anything in EPC's regulations to the contrary, if the Hearing Officer
4 determines that a finding of estoppel would result in a threat of peril to public health, safety or welfare
5 of the residents of the county, the request for relief under this part may be denied by the Commission.
6

7 **PART III: Chapter 84-446 Appeal**

8 **1-2.30 ADMINISTRATIVE REVIEW**

9 1. Any person who has received a Citation of Violation, Order to Correct, or Written Decision
10 of the Executive Director pursuant to Chapter 84-446, and any person whose interests protected by Chapter
11 84-446 are adversely affected by an action or decision of the Executive Director, may obtain administrative
12 review of the basis for the action or decision by appealing to the Commission.

13 2. To be accepted and processed, a Notice of Appeal must be received by the Chairman of
14 the Commission within twenty (20) days after receipt or notice of the action or decision complained of, state
15 specifically what part of the action or decision is appealed, and must specifically state each reason or
16 ground for the appeal.
17

18 **1-2.31 FILING, SERVICE**

19 1. A Notice of Appeal shall be served and filed by certified mail with the Chairman of the
20 Commission, and a copy served on the Executive Director.

21 2. Pleadings, papers, documents or notices shall be filed with the Hearing Officer, until such
22 time as the Hearing Officer issues his report and recommendation to the Commission, or the matter is
23 otherwise resolved. Exceptions to a Hearing Officer's report shall be filed with the Chairman, with a copy to
24 the Executive Director.

25 3. Except for a Notice of Appeal, service of any pleadings, papers, documents or notices may
26 be by regular United States mail or facsimile if desired. If a party is represented by an attorney of record,
27 service may be had by serving his attorney.
28

29 **1-2.32 PROCESS BEFORE THE HEARING OFFICER**

30 1. For each timely and appropriate appeal raising factual issues that cannot otherwise be
31 resolved, a Hearing Officer shall be appointed as provided in Section 1-2 and notice thereof provided each
32 party.

33 2. The Hearing Officer shall set each appeal for hearing at the earliest reasonable date, and
34 cause notice thereof to be served upon the Appellant and the Executive Director.

35 3. Each party may avail himself of discovery at his own expense as allowed by the Rules of
36 Civil Procedure. Hearings and the timing of any discovery shall be at the discretion of the Hearing Officer.

1 Procedural motions may be decided by the Hearing Officer, without hearing, using the Rules of Civil
2 Procedure as guidance. Requests for reconsideration or rehearing made within 10 days of a ruling on a
3 motion may be granted.

4 4. The Hearing Officer shall have the power to issue notices of hearings, subpoenas requiring
5 the attendance of witnesses, and the production of evidence, to administer oaths and take testimony as may
6 be necessary. He shall rule upon offers of proof, receive relevant evidence, dispose of procedural requests
7 or similar matters, and in general, regulate the course of the hearings. The Hearing Officer may dismiss an
8 appeal upon the Executive Director's written withdrawal of the decision appealed, or the Appellant's written
9 withdrawal of his appeal.

10 5. The Hearing Officer shall require the parties to prepare pre-hearing statements of the facts
11 and issues in dispute, and may request written briefs or memoranda of law be furnished him when deemed
12 necessary.

13
14 **1-2.33 ADMINISTRATIVE HEARING**

15 1. All hearings shall be public.

16 2. The Hearing Officer shall afford all parties properly appearing before him the requisite
17 due process of law including, but not limited to, the right to:

- 18 a. Present his case by oral and documentary evidence.
19 b. Submit rebuttal evidence and conduct such cross examination as may be required, subject,
20 however, to the ruling of the Hearing Officer.
21 c. Be accompanied, represented and advised by counsel, or to represent himself.

22 3. All testimony taken at any hearing before the Hearing Officer shall be under oath or
23 affirmation.

24 4. The burden of proof shall be on the Executive Director to establish each material fact
25 reasonably raised in the appeal of a Citation. The burden of proof shall be on the Appellant to establish
26 entitlement to a permit or exception allowed by the rules. Fact issues not raised by the Notice of Appeal
27 shall be accepted as undisputed.

28 5. The Hearing Officer shall give probative effect to evidence which would be admissible in
29 civil proceedings in Florida courts, but in receiving evidence due regard shall be given to the technical and
30 highly complicated subject matter which the Commission and Executive Director must handle, and the
31 exclusionary rules of evidence shall not be used to prevent the receipt of evidence having substantial
32 probative effect. Otherwise, effect shall be given to the rules of evidence recognized by Florida law.

33 6. A full and complete record of all proceedings and testimony presented shall be taken by
34 stenographic or mechanical device and accurately and completely preserved and filed, together with any
35 exhibit or documentary evidence admitted during any hearing. Upon payment and receipt of all costs or
36 fees necessary in producing same, a certified transcript of the whole, or any of the record, shall be furnished
37 to any party in such proceeding requesting the same.

1 **1-2.34 REPORT AND RECOMMENDATION**

2 1. The Hearing Officer shall hear and determine all factual disputes properly raised by the
3 Notice of Appeal concerning actions or decisions of the Executive Director relating to compliance with
4 Chapter 84-446, and rules and regulations promulgated by the Commission.

5 2. The Hearing Officer shall render a written report containing individually numbered
6 findings of fact based upon the evidence submitted to him. The Hearing Officer shall also separately offer
7 conclusions regarding application of Chapter 84-446 and the rules and regulations to the facts as found, with
8 a recommended draft Final Administrative Order for the Commission's consideration. The Hearing Officer
9 shall not reach constitutional issues where unnecessary to make a recommendation. The report shall be
10 submitted as promptly as possible to the Chairman and a copy thereof served on each party at the same
11 time.

12 3. When a Hearing Officer issues his report and recommendation, the file maintained by the
13 Hearing Officer in that matter shall be forwarded to the Commission Chairman, and the Hearing Officer
14 shall have no further responsibility in the matter unless the Commission refers it back for additional review.
15

16 **1-2.35 EXCEPTIONS AND FINAL ORDER**

17 1. The parties may file with the Chairman written exceptions to the Hearing Officer's report
18 on or before ten (10) days of the report's service on them. Exceptions shall be limited to challenge of the
19 Hearing Officer's determination of facts with specific reference to evidence in the record, or to the Hearing
20 Officer's application of the existing rules to the facts as found. Copies shall be served on all parties.

21 2. If no exceptions are filed within the period, the Commission shall adopt the Hearing
22 Officer's findings of fact, and shall make appropriate conclusions of law, and render a Final Order.

23 3. If exceptions are filed, they shall be heard by the Commission on reasonable notice. In
24 such proceeding to review exceptions the Commission may hear argument from both parties on issues
25 reasonably raised by the exceptions. No evidence will be taken, although opinions of the public may be
26 heard at the Commission's discretion. If opinions of the public are heard, the parties will be allowed 5
27 minutes for closing argument. Material questions of fact necessary to final application of the rules, will be
28 referred back to the Hearing Officer for review.

29 4. The Commission may reject, reverse or modify a finding of fact only if it finds that the
30 fact is not supported by substantial competent evidence in the record.

31 5. The Commission shall affirm, reverse, or modify the Hearing Officer's findings of fact,
32 make appropriate conclusions of law, and promptly render a written Final Order thereon, provided that the
33 Commission shall not take any action which conflicts with or nullifies any provision of Chapter 84-446 or
34 the rules enacted pursuant to said act.
35
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37

PART IV: Delegated Programs

1-2.40 APPEAL OF PERMITTING DECISION

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3 1. Any person who files a timely notice of appeal of the Executive Director's decision on a
4 state permit in a regulatory program for which EPC has delegation from the Florida Department of
5 Environmental Protection (DEP) or the Southwest Florida Water Management District, and which by the
6 terms of the delegation agreement requires administrative review pursuant to Chapter 120, Florida Statutes,
7 shall be subject to the applicable procedures of Chapter 120.

8 2. Any such Notice of Appeal shall be filed with the Executive Director and be copied to
9 DEP, and shall meet the applicable requirements of Chapter 62-4, Florida Administrative Code.

10 3. If timely, and if resolution cannot be obtained through other process such as mediation,
11 the appeals under this part will be referred to the Department of Administrative Hearings for processing.

12 4. Upon receipt of the Hearing Officer's report and recommendation, the Executive Director
13 or the Secretary of DEP, as required by the delegation agreement, shall issue a final administrative order
14 according to the requirements of the delegation order and applicable operating agreements.
15

PART V: Variance or Waiver

1-2.50 REQUEST FOR VARIANCE OR WAIVER

16
17
18 1. Upon application, the Executive Director may recommend to the Commission that a
19 variance or waiver be granted from the provisions of the rules adopted pursuant to Chapter 84-446, where
20 the applicant demonstrates:

- 21 a. A substantial hardship as defined by Section 120.542, Florida Statutes, or that a violation of
22 the principles of fairness would occur, and
23 b. The purpose of the underlying rule can be, or has been, achieved by other means, and
24 c. The provision from which the variance or waiver is being sought did not originate with the
25 DEP where the variance must be considered pursuant to Section 403.201, Florida Statutes.

26 2. The application must specify the rule for which the variance or waiver is requested, the
27 type of action requested, the specific facts that would justify a variance or waiver, and the reasons why and
28 the manner by which the purposes of the underlying rule would still be met.

29 3. Notice of the application must be published by the applicant in a newspaper of general
30 circulation summarizing the factual basis for the application, the date of the Commission hearing, and
31 information regarding how interested persons can review the application and provide comment.

32 4. The Commission will consider the application, the Executive Director's recommendation,
33 and the comments of the public at a regular meeting. The Commission shall grant or deny the application
34 by written decision supported by competent substantial evidence.
35
36

PART VI: Private Property Rights

1-2.60 CLAIM UNDER THE BERT HARRIS ACT

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3 1. Any person claiming that a specific action of the Commission or Executive Director in
4 implementing is regulations subject to Section 70.001, Florida Statutes, has inordinately burdened an
5 existing use or vested right in his property as defined in Section 70.001(3) Florida Statutes, must present a
6 written claim to the EPC Chairman, with a copy to the Executive Director, within one (1) year of the
7 challenged action. The claim must specifically identify the action taken by EPC, the property affected, the
8 use or right claimed to be vested, the manner by which the action inordinately burdens the use or vested
9 right, and must include an appraisal demonstrating the alleged loss in fair market value.

10 2. The Executive Director will provide written notice of the claim by certified mail to the
11 address kept on file by the County Property Appraiser to all owners of real property contiguous to the
12 subject property, and to any substantially affected party who submitted testimony in support or opposition
13 to the challenged action and who requests notice of any subsequent proceeding

14 3. The Executive Director will submit to the claimant, within 180 days of receiving the claim
15 or as may be agreed by the parties, a settlement offer which addresses any identified inordinate burden, if
16 any, and which continues to protect the public interest served by the questioned regulation.

17 4. If the settlement is accepted, the parties will proceed to implement the agreement. If the
18 settlement contravenes an existing statute, the parties will jointly file a suit in circuit court to obtain judicial
19 approval.

20 5. If the settlement is rejected, the Executive Director will issue a No Further Administrative
21 Action Letter (i.e. ripeness decision), identifying the allowable uses for the subject property.

22 6. a. If a judicial decision subsequently requires that EPC compensate a claimant for an
23 inordinate burden to his property, EPC will seek legal title to that property interest.

24 b. If the court finds that EPC made a bona fide settlement offer and ripeness decision
25 pursuant to Section 70.001(6)c, Florida Statutes, which the claimant failed to accept, EPC
26 will seek attorneys' fees and costs.
27

28 **1-2.61 CLAIM UNDER THE DISPUTE RESOLUTION ACT**

29 1. Any person claiming that an EPC enforcement action, permit, authorization, or other
30 development order unfairly burdens the use of his land or real property, may seek relief as allowed by
31 Section 70.51, Florida Statutes by filing a written request for appointment of a special master to the EPC
32 Chairman, with a copy to the Executive Director, within 30 days of the challenged action [*Caution: the*
33 *filing deadlines under parts III and IV are not automatically stayed*]. The request must specifically
34 identify the action taken by EPC, the property affected, and must explain how the action taken is alleged to
35 be unreasonable or to unfairly burden the claimant's property.

36 2. If all administrative appeals have not been exhausted at the time of the request, the

- 1 Executive Director may:
- 2 a. Treat the request for a special master as an administrative appeal under Chapter 84-446,
3 Laws of Florida, as provided in Part III above if made within the 20 days of the challenged
4 action, granting the claimant the option to submit a new request at the conclusion of the
5 appeal;
- 6 b. Convert an ongoing administrative appeal to the special master process; or
- 7 c. Suspend the request for a special master pending conclusion of an ongoing administrative
8 appeal or expiration of 4 months, whichever occurs first.
- 9 3. Within 10 days of the filing or decision to proceed as described above, the Executive
10 Director will forward the request to a mutually agreed upon special master.
- 11 4. The Executive Director will provide written notice of the request by certified mail to the
12 address kept on file by the County Property Appraiser to all owners of real property contiguous to the
13 subject property, and to any substantially affected party who submitted testimony in support or opposition
14 to the EPC action and who requests notice of any subsequent proceeding.
- 15 a. Within 21 days of the filing of the request or decision to proceed as described above, any
16 property owner or substantially affected person receiving notice from EPC, may request
17 permission to participate in the special master proceeding, but not as a party or intervenor.
- 18 5. Within 15 days of the filing of the request or decision to proceed as described above, the
19 Executive Director will respond to the claimant setting forth EPC's position regarding the allegations, and
20 include a statement explaining the public purpose of the regulations upon which the action or development
21 order is based.
- 22 6. Within 45 days of receipt of the request or as agreed by the parties, the special master
23 must hold a hearing. The purpose of the hearing is to focus attention on the impact of the challenged EPC
24 action, and to explore alternatives.
- 25 a. The special master will provide at least 40 days notice prior to the hearing.
- 26 b. The hearing will be informal and not require the services of an attorney. The hearing will
27 be open to the public.
- 28 c. The special master may subpoena any nonparty witness in the state to aid in the
29 disposition of the matter.
- 30 d. Actions or statements made by participants in the special master hearing are inadmissible
31 in any subsequent judicial or administrative proceeding.
- 32 e. The special master may hear from all parties and witnesses necessary to understand the
33 matter, and must weigh all information offered at the hearing, in the request for relief, and
34 any responses.
- 35 7. The parties may settle the issues at any time, and end the proceedings. If an acceptable
36 solution is not reached after the special master's attempt at mediation, the special master must determine
37 whether the EPC action is unreasonable or unfairly burdens the real property. The circumstances to be

1 examined in making this determination include those set forth in Section 70.51(18), Florida Statutes.

2 8. Within 14 days after the conclusion of the hearing, the special master must prepare and
3 submit a written recommendation to the parties.

4 a. If the special master determines that the EPC action is not unreasonable or unfairly
5 burdens the real property, the proceeding ends and the claimant may pursue other
6 available remedies;

7 b. If the special master determines that the EPC action is unreasonable or unfairly burdens
8 the real property, the special master may, with the claimant's consent, recommend one or
9 more alternative solutions. The selected alternatives must protect the public interest
10 served by the underlying regulation and also allow for reduced restraints on the use of the
11 real property.

12 9. Within 45 days of receipt of the special master's recommendation, the Commission will
13 accept, modify through agreement, or reject the recommendation. Failure to act is a rejection.

14 a. The Executive Director will issue a written No Further Administrative Action Letter (i.e.
15 ripeness decision) within 30 days if the Commission rejects the recommendation, or if the
16 claimant rejects the Commission's decision on the recommendation. The ripeness
17 decision will describe the uses available to the real property.

18 10. Fees, costs and expenses of the special master process are to be shared equally between all
19 governmental parties and the claimant. EPC shall estimate the costs and shall submit the analysis and
20 allocation to the claimant at the time of submitting its response to the initial request. Payment shall be
21 submitted to the special master or otherwise arranged for prior to the hearing being held.

Section 2. It is declared to be the intent of the Environmental Protection Commission that the provisions of this rule be severable. If one or more of the sections, subsection, sentences, clauses or provisions are held invalid, for whatever reason, the remaining portions shall not be affected.

Section 3. This rule shall be effective upon approval in accordance with law.

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EPC Public Information & Education Report
May 1997

	Adm.	Air	Wet.	Waste	Water	Legal	Total
Media Contacts/Releases	3	3	9	1	0	1	17
Material Distributed	819	1075	168	348	100	3033	5543
Talks Given	1	1	3	2	2	1	10
Displays/Demos/Tours	1	0	0	0	0	0	1
No. of people at talks, etc.	50	20	30	125	60	50	335

From January 1, 1997 to Date

Media Contacts/Releases	15	24	16	14	10	1	80
Materials Distributed	7408	14607	1126	2890	600	3033	29664
Talks Given	9	20	29	5	17	4	84
Displays/Demos/Tours	4	2	0	0	0	0	6
No. of people at talks, etc.	470	120	245	365	410	110	1720

Current Projects

1. Inventory review.
2. Participation in community service groups.
3. Preparation Quarterly Newsletter.
4. Community outreach/networking/media relations.
5. Distribution Annual Report.

Future Projects

1. USF Environmental Partnership
2. Implementation of EPC information on GATV.
3. Coordination of industry/EPC information sharing.
4. Development of Pollution Prevention information for agency.
5. Training for Public Education Coordinators.

EPC Public Information & Education Report
June 1997

	Adm.	Air	Wet.	Waste	Water	Legal	Total
Media Contacts/Releases	26	5	24	1	25	1	82
Material Distributed	790	147	150	642	25	0	1754
Talks Given	1	1	4	2	0	1	9
Displays/Demos/Tours	1	0	0	0	1	0	2
No. of people at talks, etc.	30	25	30	30	30	50	195

From January 1, 1997 to Date

Media Contacts/Releases	41	29	40	15	35	2	162
Materials Distributed	8648	14754	1276	3532	625	3033	31868
Talks Given	10	20	33	7	17	5	93
Displays/Demos/Tours	5	2	0	0	1	0	8
No. of people at talks, etc.	500	145	275	395	440	160	1915

Current Projects

1. Inventory review.
2. Participation in community service groups.
3. Finalize Quarterly Newsletter.
4. Community outreach/networking/media relations.
5. Finalize Annual Report.

Future Projects

1. USF Environmental Partnership
2. Implementation of EPC information on GATV.
3. Coordination of industry/EPC information sharing.
4. Development of Pollution Prevention information for agency.
5. Training for Public Education Coordinators.

MONTHLY ACTIVITIES REPORT
AIR MANAGEMENT DIVISION
JUNE

A.	Public Outreach/Education Assistance:	147	
B.	Industrial Air Pollution Permitting		
1.	Permit Applications Received (Counted by Number of Fees Received):		
a.	Operating:	4	
b.	Construction:	10	
c.	Amendments:	9	
d.	Transfers/Extensions:	3	
2.	Delegated Permits Issued by EPC and Non-delegated Permits Recommended to DEP for Approval (Counted by Number of Fees Collected):		
a.	Operating:	5	
b.	Construction:	10	
c.	Amendments:	8	
d.	Transfers/Extensions:	3	
e.	Title V Operating:	1	
3.	Intent to Deny Permit Issued	0	
4.	General Permits	0	
C.	Administrative Enforcement		
1.	Documents Issued:		
a.	Notice of Intent to Initiate Enforcement	0	
b.	Citation	0	
c.	Other _____	0	
2.	Total Cases Initiated:	1	
3.	Cases Resolved:	1	
4.	Cases Referred to Legal Department:	0	
5.	Consent Orders Signed:	1	
6.	Contributions to the Pollution Recovery Fund:	\$13,200.00	
	<u>Organization Name</u>	<u>Violation</u>	<u>Amount</u>
a.	Tampa Electric Co	Permit Violation; SO ₂ exceedance	\$13,200.00

D.	Inspections:	
1.	Industrial Facilities:	<u>5</u>
2.	Air Toxics Facilities:	
	a. Asbestos Emitters	<u>0</u>
	b. Area Sources (i.e. Drycleaners, Chrome Platers, etc...)	<u>23</u>
	c. Major Sources	<u>0</u>
3.	Asbestos Demolition/Renovation Projects:	<u>24</u>
4.	Gasoline Retailers:	<u>0</u>
5.	Auto Repair Facilities:	<u>25</u>
6.	Retail Auto Dealers:	<u>0</u>
7.	Automotive Parts Stores:	<u>0</u>
8.	Fleet Operators:	<u>0</u>
9.	CFC Facilities:	<u>48</u>
E.	Open Burning Permits Issued:	<u>11</u>
F.	Number of DOF Permits Monitored:	<u>237</u>
G.	Total Citizen Complaints Received:	<u>65</u>
H.	Total Citizen Complaints Investigated:	<u>54</u>
I.	Noise Sources Monitored:	<u>5</u>
J.	Air Program's Input to DRI's:	<u>0</u>
K.	Test Reports Reviewed:	<u>0</u>
L.	Compliance:	
1.	Warning Notices Issued:	<u>15</u>
2.	Warning Notices Resolved:	<u>16</u>
3.	Advisory Letters Issued:	<u>9</u>

FEES COLLECTED FOR AIR MANAGEMENT DIVISION
JUNE

	Total Revenue
1. Non-delegated construction permit for an air pollution source	
(a) New Source Review or Prevention of Significant Deterioration sources	<u>\$1,600.00</u>
(b) all others	<u>\$ -0-</u>
2. Non-delegated operation permit for an air pollution source	
(a) class B or smaller facility - 5 year permit	<u>\$ -0-</u>
(b) class A2 facility - 5 year permit	<u>\$ -0-</u>
(c) class A1 facility - 5 year permit	<u>\$ -0-</u>
3. (a) Delegated Construction Permit for air pollution source (20% of the amount collected is forwarded to the DEP and not included here)	<u>\$10,180.00</u>
(b) Delegated operation permit for an air pollution source (20% of the amount collected is forwarded to the DEP and not included here)	<u>\$3,400.00</u>
4. Non-delegated permit revision for an air pollution source	<u>\$ -0-</u>
5. Non-delegated permit transfer of ownership, name change or extension	<u>\$ 120.00</u>
6. Notification for commercial demolition	
(a) for structure less than 50,000 sq ft	<u>\$1,425.00</u>
(b) for structure greater than 50,000 sq ft	<u>\$ -0-</u>
7. Notification for asbestos abatement	
(a) renovation 160 to 1000 sq ft or 260 to 1000 linear feet of asbestos	<u>\$ 120.00</u>
(b) renovation greater than 1000 linear feet or 1000 sq ft	<u>\$ 495.00</u>
8. Open burning authorization	<u>\$3,550.00</u>
9. Enforcement Costs	<u>\$ -0-</u>

**ACTIVITIES REPORT
WATER MANAGEMENT DIVISION**

JUNE, 1997

A. ENFORCEMENT

1. New Enforcement Cases Received:	1
2. Enforcement Cases Closed:	5
3. Enforcement Cases Outstanding:	22
4. Enforcement Documents Issued:	2
5. Warning Notices:	10
a. Issued:	6
b. Resolved:	4
6. Recovered costs to the General Fund:	\$1,135.71
7. Contributions to the Pollution Recovery Fund:	\$3,825.00

<u>Case Name</u>	<u>Violation</u>	<u>Amount</u>
a. Eastwood Estates MHP	Improper operation and maintenance	\$ 200.00
b. Town & Country MHP	Unpermitted discharge and failure to meet effluent limits	500.00
c. Craft MHP	Improper operation & maintenance and missing CO deadline	500.00
d. Tampa Palms-Zom Apts.	Placing system into operation w/o approval	2,000.00
e. Alafia Riverfront MHP	Leaching	625.00

B. PERMITTING - DOMESTIC

1. Permit Applications Received:	24
a. Facility Permit:	3
(i) Types I and II	1
(ii) Type III	2
b. Collection Systems-General:	11
c. Collection Systems-Dry Line/Wet Line:	10
d. Residuals Disposal:	0
2. Permit Applications Approved:	34
a. Facility Permit:	6
b. Collection Systems-General:	13
c. Collection Systems-Dry Line/Wet Line:	15
d. Residuals Disposal:	0
3. Permit Applications Recommended for Disapproval:	0
a. Facility Permit:	0
b. Collection Systems-General:	0
c. Collection Systems-Dry Line/Wet Line:	0
d. Residuals Disposal:	0

4. Permit Applications (Non-Delegated) Recommended for Approval:	<u>1</u>
5. Permits Withdrawn:	<u>1</u>
6. Permit Applications Outstanding:	<u>47</u>
a. Facility Permit:	<u>43</u>
b. Collection Systems-General:	<u>10</u>
c. Collection Systems-Dry Line/Wet Line:	<u>1</u>
d. Residuals Disposal:	<u>0</u>
C. INSPECTIONS - DOMESTIC	<u>49</u>
1. Compliance Evaluation:	<u>19</u>
a. Inspection (CEI):	<u>4</u>
b. Sampling inspection (CSI):	<u>10</u>
c. Toxics Sampling Inspection (XSI):	<u>0</u>
d. Performance Audit Inspection (PAI):	<u>5</u>
2. Reconnaissance:	<u>30</u>
a. Inspection (RI):	<u>14</u>
b. Sample Inspection (SRI):	<u>1</u>
c. Complaint Inspection (CRI):	<u>4</u>
d. Enforcement Inspection (ERI):	<u>6</u>
3. Special:	<u>0</u>
a. Diagnostic Inspection (DI):	<u>0</u>
b. Residual Site Inspection (RSI):	<u>0</u>
c. Preconstruction Inspection (PCI):	<u>0</u>
d. Post Construction Inspection (XCI):	<u>0</u>
D. PERMITTING - INDUSTRIAL	
1. Permit Applications Received:	<u>2</u>
a. Facility Permit:	<u>0</u>
(i) Types I and II	<u>0</u>
(ii) Type III with groundwater monitoring	<u>0</u>
(iii) Type III w/o groundwater monitoring	<u>0</u>
b. General Permit:	<u>2</u>
c. Preliminary Design Report:	<u>0</u>
(i) Types I and II	<u>0</u>
(ii) Type III with groundwater monitoring	<u>0</u>
(iii) Type III w/o groundwater monitoring	<u>0</u>
2. Permits Recommended to DEP for Approval:	<u>1</u>
3. Permit Applications Outstanding:	<u>30</u>
a. Facility Permits:	<u>28</u>
b. General Permits:	<u>2</u>

E. INSPECTIONS - INDUSTRIAL	<u>19</u>
1. Compliance Evaluation:	<u>10</u>
a. Inspection (CEI):	<u>10</u>
b. Sampling Inspection (CSI):	<u>0</u>
c. Toxics Sampling Inspection (XSI):	<u>0</u>
d. Performance Audit Inspection (PAI):	<u>0</u>
2. Reconnaissance:	<u>9</u>
a. Inspection (RI):	<u>8</u>
b. Sample inspection (SRI):	<u>0</u>
c. Complaint Inspection (CRI):	<u>1</u>
F. CITIZEN COMPLAINTS	
1. Domestic: <u>34</u>	
a. Received:	<u>10</u>
b. Closed:	<u>24</u>
2. Industrial:	<u>2</u>
a. Received:	<u>1</u>
b. Closed:	<u>1</u>
3. Water Pollution:	<u>36</u>
a. Received:	<u>27</u>
b. Closed:	<u>9</u>
G. RECORD REVIEWS	
1. Permitting:	<u>3</u>
2. Enforcement:	<u>0</u>
H. ENVIRONMENTAL SAMPLES ANALYSED FOR:	
1. Air Division:	<u>82</u>
2. Waste Division:	<u>16</u>
3. Water Division:	<u>173</u>
4. Wetlands Division:	<u>0</u>
I. SPECIAL PROJECT REVIEWS	
1. DRI's:	<u>2</u>
2. Permitting:	<u>0</u>
3. Enforcement:	<u>0</u>
4. Other:	<u>0</u>

J. WATER QUALITY MONITORING SPECIAL PROJECTS

1. Data Review	<u>0</u>
2. Special Sampling	<u>0</u>
3. Biomonitoring/Toxicity Reviews (DW)	<u>4</u>
4. Biomonitoring/Toxicity Reviews (IW)	<u>2</u>
5. Other	<u>0</u>
K. TAMPA PORT AUTHORITY/DEP DREDGE & FILL	<u>32</u>

AR06.97

B. WATER PERMITTING - DOMESTIC

2. State Permit Applications Approved:

a. FACILITY PERMIT

See Attached Table B.2.a.

b. COLLECTION SYSTEMS - GENERAL

See Attached Table B.2.b./c.

c. COLLECTION SYSTEMS - DRY LINE/WET LINE

See Attached Table B.2.b./c.

d. RESIDUALS DISPOSAL

None

C. WATER PERMITTING - INDUSTRIAL

2. State Permit Applications Recommended for Approval:

a. OPERATION

None

b. CONSTRUCTION

None

c. TEMPORARY OPERATION

None

3. State Permit Applications Recommended for Disapproval:

a. OPERATION

None

b. CONSTRUCTION

None

c. TEMPORARY OPERATION

None

COMMISSION

DOTTIE BERGER
JOE CHILLURA
CHRIS HART
JIM NORMAN
JAN PLATT
THOMAS SCOTT
ED TURANCHIK

EXECUTIVE DIRECTOR

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WASTE MANAGEMENT DIVISION
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WETLANDS MANAGEMENT DIVISION
TELEPHONE (813) 272-7104

MEMORANDUM

DATE: July 8, 1997
TO: Hooshang Boostani, Director, Waste Management
FROM: Mike Newman, Enforcement, Waste Management
SUBJECT: WASTE MANAGEMENT'S JUNE AGENDA BACKUP INFORMATION

The following is a summary of activities for the month of **June**, 1997. If you would like more information concerning any of these activities please let me know.

WASTE MANAGEMENT DIVISION

A. Administrative Enforcement

1.	New cases received	<u>2</u>
2.	Ongoing administrative cases	
	a. Pending	<u>24</u>
	b. Active	<u>29</u>
	c. Legal	<u>14</u>
	d. Tracking Compliance (Admin.)	<u>10</u>
	e. Inactive/Referred cases	<u>20</u>
	f. Criminal compliance tracking	<u>22</u>
3.	NOI's issued	<u>0</u>
4.	Citations issued	<u>0</u>
5.	Consent Orders signed	<u>1</u>
6.	Civil contrib. to the Pollution Rec. Fund	<u>\$0.00</u>
7.	Criminal contrib. to the Pollution Rec. Fund	<u>\$0.00</u>
8.	Enforcement costs collected	<u>\$0.00</u>
9.	Cases referred to legal	<u>1</u>
10.	Cases closed	<u>2</u>

B. Solid and Hazardous Waste

1.	Permits (Received/Reviewed)	<u>1/2</u>
2.	EPC Authorization For Facilities Not Requiring DEP Permit	<u>1/1</u>
3.	Other permits and Reports	
	a. County Permits	<u>0/0</u>
	b. *Reports	<u>64/67</u>

*Note, "other reports" includes: Lab analyses, CAPs/CARs, groundwater monitoring reports

4.	Inspections (total)	<u>227</u>
	a. Complaint	<u>77</u>
	b. Compliance/reinspections	<u>45</u>
	c. Facility Compliance	<u>21</u>
	d. Small Quantity Generator	<u>84</u>
5.	Enforcement	
	a. Complaints Received/Closed	<u>60/38</u>
	b. Warning Notice Issued/Closed	<u>5/0</u>
	c. Compliance Letters	<u>60</u>
	d. Letters of Agreement	<u>0</u>
	e. DEP Referrals	<u>0</u>
6.	Pamphlets, Rules and Material Distrib.	<u>537</u>
C.	<u>Underground Storage Tank - Cleanup Department</u>	
1.	Inspections:	<u>8</u>
	a. Investigation	<u>5</u>
	b. SUPER Act	<u>3</u>
2.	Reports Received/Reviewed	<u>39/38</u>
	a. Contamination Assessment (CARs)	<u>5/4</u>
	b. Initial Remedial Action (IRA)	<u>1/1</u>
	c. Remedial Action Plans (RAPs)	<u>2/0</u>
	d. Site Rehabilitation Completion (SRCs)	<u>1/1</u>
	e. Others	<u>30/32</u>
3.	Reimbursement Applications	
	a. Received	<u>77</u>
	b. Reviewed	<u>31</u>
4.	State Cleanup Site Activities	
	a. Active Sites	<u>5</u>
	b. Funds Disbursed	<u>\$21,484.42</u>
D.	<u>Underground Storage Tank Compliance Department</u>	
1.	Inspections	<u>192</u>
	a. UST Compliance	<u>77</u>
	b. AST Compliance	<u>36</u>
	c. UST Installation	<u>18</u>
	d. AST Installation	<u>2</u>
	e. UST Closure	<u>14</u>
	f. AST Closure	<u>1</u>
	g. *Other Inspections	<u>44</u>
2.	Installation Plans Reviewed	<u>16</u>

* Note, "others inspections" include: reinspections, additional installation visits, and unregulated site inspections.

3.	Closure Plans & Reports Received/Reviewed	<u>19/21</u>
a	Closure Plans Received/Reviewed	<u>12/12</u>
b	Closure Reports Received/Reviewed	<u>7/9</u>
4.	Enforcement	
a.	Noncompliance Letters	<u>42</u>
b.	Warning Notices (issued/closed)	<u>0/2</u>
c.	Cases referred for Enforcement	<u>2</u>
d.	Complaints received/investigated	<u>0/0</u>
e.	Complaints referred	<u>0</u>
f.	Cases Referred to DEP	<u>0</u>
5.	FPLIRP Checklists Completed	<u>5</u>
6.	Cleanup Notification Letters Issued	<u>3</u>
7.	Public Assistance	<u>400+</u>
E.	<u>Record Reviews</u>	<u>69</u>
F.	<u>Public Information Projects</u>	<u>2</u>
1.	Maria Bristow presented "RCRA Hazardous Waste Issues for Generators of Hazardous Waste" at the Florida Plant Engineering & Maintenance Show & Conference.	
2.	Kellie Boatwright moderated a session on "Mass Communication for Pollution Prevention" at the Florida Department of Environmental Protection/U.F. TREEO Center's Pollution Prevention Workshop.	

ASSESSMENT SECTION

A. EPC Wetlands Reviews		TOTALS
1.	Wetland Delineations	
a.	Wetland Delineations (\$100)	44
b.	Wetland Delineation Dispute	2
c.	Wetland Line Survey Reviews	29
d.	Additional Footage Fees	\$ 5623.40
2.	Misc. Activities in Wetlands (\$0, \$50 or \$80 as applicable)	
a.	Nuisance Vegetation	5
b.	Other	14
3.	Impact/Mitigation Proposal (\$645)	9
4.	Mitigation Agreements Recorded	4
5.	FDOT Reviews	0
B. EPC Delegation/Reviews from State/ Regional/ Federal Authorities		
1.	Tampa Port Authority Permit Apps. (\$50 or \$150 as applicable)	30
2.	Wastewater Treatment Plants (FDEP)	26
3.	FDEP Wetland Resource Apps.	0
4.	FDEP Grandfathered Delineation	0
5.	SWFWMD Wetland Resource Apps.	0
6.	Army Corps of Engineers	7

TOTALS

7.	Interagency Clearinghouse Reviews	1
8.	Development of Regional Impact	0
C. Hills. County/ Municipality Permit Application Reviews		
1.	Land Alteration/Landscaping (\$80)	3
2.	Land Excavation (\$785 or \$650 as applicable)	1
3.	Phosphate Mining	
a.	Unit Review/Reclamation	4
b.	Annual Review/Inspection	0
4.	Rezoning	
a.	Reviews (\$70)	5
b.	Hearings	0
c.	Hearing Prep (hours)	0
5.	Site Development/Commercial (\$300)	
a.	Preliminary	2
b.	Construction	8
6.	Subdivision	
a.	Preliminary Plat (\$140)	8
b.	Master Plan (\$550)	0
c.	Construction Plans (\$250)	12
d.	Final Plat (\$90)	15
e.	Waiver of Regulations (\$100)	0
f.	Minor - Survey Subd. \$100)	8
g.	Minor - Certified Parcel (\$100)	0
7.	As-Builts	4

TOTALS

8.	Miscellaneous Reviews (no fees)	
a.	Wetland Setback Encroachment	1
b.	Easement /Vacating	0
c.	NRCS Review	1
9.	Preapplications (no fees)	
a.	Review preparation (hours)	15.95
b.	Meetings/Reports	5
10.	Development Review Committee (no fees)	
a.	Review preparation (hours)	0
b.	Meetings	0

D. Other Activities

1.	Unscheduled meetings with members of the public (walk-ins)	137
2.	Other Meetings	74
3.	Telephone conferences	1052
4.	Presentations	3
5.	Correspondence	233
6.	Correspondence Review (hours)	15.75
7.	Special Projects (hours)	22.25
8.	On-site visits	71
9.	Appeals	0

ADMINISTRATIVE ENFORCEMENT/ENF. COORDINATOR

A. New Cases Received	2
B. Activities	
1. Ongoing Cases	
a. Active	41
b. Legal	3
c. Tracking	31
2. Number of "Notice of Intent to Initiate Enforceme	2
3. Number of Citations Issued	0
4. Number of "Emergency Order of the Director"	0
5. Number of Consent Orders Signed	3
C. Cases Closed	
1. Administrative/Civil Cases Closed	2
2. Criminal Cases Closed	0
3. Cases Referred to Legal Dept.	
D. Contributions to Pollution Recovery	\$910.00
E. Enforcement Costs Collected	\$500.76

INVESTIGATIONS/COMPLIANCE SECTION

A. Complaints

1. Received	34
2. Compl Inspection	60
3. Closed	53

B. Warning Notices

1. Issued	9
2. Return Inspections	72
3. Closed	12

C. Mitigation

1. Compliance/Monitoring Reviews	25
2. Compliance Inspections	30

D. Other Activities

1. Case Meetings	5
2. Other Meetings	43
3. Telephone conferences	474
4. File Reviews	43
5. Cases Referred to Enforcement Coordinato	2
6. Letters	71

ADMINISTRATIVE/TECHNICAL SECTIONS

A. Soil Scientist

1. Case Reviews	11
2. Field Soil Investigations	11
3. Soil Investigation Notes/Reports	11

B. Administrative Support Staff

1. Public Record/File Reviews	4
2. Unscheduled Reviews	1
3. Telephone Assistance	1660
4. Incoming Projects/Information	250/41
5. Additional Projects/Info logged	34/210

C. Engineering Staff

1. Meetings	15
2. Reviews	17
3. Aerial Reviews	24
4. Telephone Inquiries	66

Special Projects

Minimum Flows and Levels Rulemaking
Article for Newsletter

LEGAL DEPARTMENT MONTHLY REPORT
July 8, 1997

A. ADMINISTRATIVE APPEALS

NEW CASES [0]

EXISTING CASES [10]

Marks: Appealed EPC Citation for wetland destruction; settlement negotiations reached impasse. Authority to take appropriate legal action granted in 1995 (see, Marks - litigation cases).

Truck Parts of Tampa: EPC cited the owner, California Property, Inc., and lessee Truck Parts, Inc., for violations including the discharge of acid and hydraulic fluid, and the accumulation of solid waste. The owner of the property appealed the Citation and asserted that he is unable to gain access to the property. The lessee did not appeal. Authority to take legal action granted (see, Truck Parts - litigation cases).

EPC v. DEP: (Florida Power & Light, Orimulsion conversion project.) Objected to DEP's proposed permit upon Florida Power & Light's failure to provide the required assurances that environmental criteria will be met. The EPC, Executive Director, stipulated that EPC's objections will be withdrawn if certain conditions were added to the permit. The Hearing Officer recommended that the conversion project be permitted subject to conditions, including those agreed to in our stipulation. The Governor and Cabinet, sitting as the Power Plant Siting Board, entered an order denying the power plant certification. FP&L appealed the Siting Board's decision to the First District Court of Appeal which vacated and remanded with instructions. The Siting Board is expected to hold a September rehearing; DEP Secretary Wetherell continues to withhold her decision as to the separate PSD (air) permit pending the completion of the certification process.

FIBA/Bridge Realty: EPC issued a Citation to the owner, Bridge Realty, and former tenant, FIBA Corp., for various unlawful waste management practices, and ordered that a contamination assessment must be conducted, a report submitted and contaminated material appropriately handled. Bridge Realty and FIBA appealed. Bridge Realty initiated a limited assessment, and provided staff with a copy of the report. Staff has reviewed the report and requested additional information. Bridge's consultant is working with staff to provide the needed information.

Tampa Scrap Processors, Inc.: Appealed EPC Citation for violations relating to the management of solid waste, used oil and hazardous waste. Based on discussions between staff and Respondent during Feb. '97, Respondent was proceeding with a contamination assessment of the site, to provide a report of their findings so that settlement might be achieved. We have now been advised that the assessment has ceased since Respondent has not paid the consultant. We will reconsider proceeding with the appeal against the likelihood of settlement.

Metro Recycling & Disposal, Inc. Et al.: Appealed EPC citation for operating a Materials Recovery Facility without the proper permits. DEP confirmed the permit requirement under their rules. Anticipating DEP's denial of the permit, we obtained authority to take appropriate legal action (see, Metro-litigation case).

Martin Brothers: [In the several related cases, the trial scheduled for February 97 in Hillsborough County was continued, and KBH has appealed the Pinellas Court's decision to not assume exclusive jurisdiction over the subject.]. EPC is pursuing enforcement of the 1988 Memorandum of Agreement between Pinellas County, KBH, Hillsborough County, EPC and the Martins. Mediation began on June 6 during which several options were discussed. The parties will reconvene when additional information has been obtained; the date has not been set.

RLN Corporation: Appealed EPC Citation directing that two underground storage tanks be upgraded or properly closed. The tanks have now been removed and properly closed. Staff met with Respondent in an effort to resolve the penalty amount issue. Respondent has provided, and EPC staff is reviewing, financial information as part of the request to reduce or waive civil penalties.

Southeast Oil and Development Corporation: Homeowners concerned about odors requested mediation regarding EPC's Intent to Issue Title V Air Operation Permit to Southeast Oil and Development Corporation. The permit in question is for a fiberglass lay-up and abrasive blasting facility in Thonotosassa. The applicant did not agree to mediation and the matter is therefore being treated as a request for a hearing. Pursuant to our delegation agreement with DEP, this was referred to DOAH for processing. The final hearing was completed on May 20; all parties submitted proposed recommended orders. The Administrative Law Judge has 15 days to submit his recommended order to DEP.

672 Recovery, Inc.: Appealed EPC Citation for unauthorized burning and waste disposal problems. The facility has provided, and EPC staff is reviewing, a plan for avoiding and handling similar situations in the future. Staff is continuing to monitor the facility. Some corrections have been implemented.

RESOLVED CASES [0]

B. LITIGATION CASES

NEW CASES [0]

EXISTING CASES [14]

Hughes Hard Chrome, Inc.: Authority granted in 1993 regarding water violations. The company, which signed a Consent Order, is now out of business on the affected site, but does still exist in the County. Staff has obtained approval to use Pollution Recovery Funds to conduct a Preliminary Contamination Assessment, to be recovered through litigation. Suit has been filed and process served on four of five defendants. We have been unable to date to obtain service on record title owner. Discovery as to existence and whereabouts of the record title owner is needed and is being pursued.

Holley, Raymond, et al.: Suit filed against owners to compel proper closure for improperly abandoned Underground Storage Tank, and seeking civil penalties and costs. Default entered; Defendants filed bankruptcy. Property has been auctioned to a third party purchaser who has not yet followed through with the purchase and bankruptcy estate has not taken action to abandon the property.

Marks: Authority granted to take appropriate legal action for restoration of wetlands disturbed by the Mark's activities, penalties and costs. Suit filed and service of process has been waived by one defendant. Awaiting service of process on co-owner who is now believed to have left the state.

Balm Grocery: Received authority in 1995 to proceed against owners/operators for improperly abandoning underground storage tanks, and for operational problems with 3 active tank systems. The new facility operator was notified that the facility must be brought into compliance; the abandoned tanks appear to be on County property. The County was advised of existing cleanup programs for which the site may be eligible, but in a December meeting, indicated that the right-of-way may have been vacated. We await the County Attorney's re-research of the situation. The issue of abandoned tanks on the County's right of way has been separated from the operational violations, and we are proceeding against the current facility owners and operators for correction.

Causeway Station: Authority granted 10/95, to compel upgrades or closure of underground storage tanks (UST), to enforce operating requirements, and to recover penalties and costs. Removal of the five previously existing UST's and required closure assessment has been completed. In addition, the stockpiled contaminated soils have been removed from the site and properly disposed. Respondent is reviewing a proposed settlement agreement to address the payment of penalty and costs.

Moore Properties of Tampa, Inc.: Suit filed to compel proper closure and removal of abandoned underground storage tanks, recover penalties and costs. Default entered. In a separate action by a judgment creditor, a receiver was appointed who is authorized to investigate and bring site into compliance. EPC moved to consolidate the two cases. Staff is working with the receiver to establish terms using available funds to achieve compliance, and a draft Settlement Agreement is under review.

Truck Parts of Tampa: Authority granted in 1995. Suit filed against multiple defendants to abate pollution, obtain soil and groundwater assessment, soil and waste tire cleanup, proper disposal, proper management of incoming wastes, costs, and applicable penalties. Proceeding with discovery. A case management hearing was canceled by the court.

GATX Terminals Corp.: [In a related case, settlement entered pertaining to other environmental issues requiring penalties and costs.] Authority granted 4/96 to compel compliance with standards pertaining to construction and operation of two above ground storage tanks. Staff provided notice to the Port Authority, as requested. GATX has submitted, and EPC staff is reviewing, an application for DEP approval of an "Alternate Procedure" which they claim would provide the required environmental protection.

Optimum Petroleum v. Emad Qasem, EPC, et al.: In pursuing foreclosure of a construction lien on a UST facility, Plaintiff named EPC as a Defendant because of our recorded judgment. EPC answered the Complaint asserting the priority of our judgment lien. EPC has proposed settlement and has provided Plaintiff with a draft agreement. Discussions continue as to most expedient process.

Slusmeyer: Defendant has failed to comply with a prior judgment and injunction requiring proper closure of underground storage tanks. Discovery is proceeding so that injunctive relief might be pursued.

Nix v. EPC, et al.: An employee, released because of budget cuts, filed suit against the agency and individuals within the agency alleging, under the Whistle-blowers Act, that her discharge was retaliatory. The individuals named as defendants have been dropped from the suit. The Court denied Plaintiff's second motion for temporary reinstatement and ordered Plaintiff to file a more definite statement. Plaintiff has since filed a Third Amended Complaint which EPC has answered. EPC filed a Motion for Summary Judgment; hearing has been set for late August.

Larrett Mobile Home Park/Mathis: Filed complaint against owner of Mobile Home Park Wastewater Treatment System for breach of Settlement Agreement, seeking payment of penalties. Defendant cannot be located; served by publication. Defendant's response deadline has passed; Motion for Entry of Default and Final Judgment filed with supporting affidavits. Hearing has been set for late July.

Kings Food Mart: Authority granted 9/96 to compel an assessment of extent of reported contamination at a retail gasoline facility and compliance with regulations relating to leak detection of existing the Underground Storage Tank system. Complaint is being drafted.

Metro Recycling, Inc.: Authority granted 11/96 and EPC notified Metro of forthcoming litigation. Metro submitted a new permit application which DEP handled as an amendment. EPC provided DEP and Metro with comments and recommendations; DEP anticipates issuing a Notice of Intent to Issue next week. Respondent has met with EPC staff regarding the assessment of a reasonable penalty.

RESOLVED CASES [0]

COMMISSION

DOTTIE BERGER
JOE CHILLURA
CHRIS HART
JIM NORMAN
JAN PLATT
THOMAS SCOTT
ED TURANCHIK

EXECUTIVE DIRECTOR

ROGER P. STEWART



ADMINISTRATIVE OFFICES, LEGAL &
WATER MANAGEMENT DIVISION
1900 - 9TH AVENUE
TAMPA, FLORIDA 33605
TELEPHONE (813) 272-5960
FAX (813) 272-5157

AIR MANAGEMENT DIVISION
TELEPHONE (813) 272-5530

WASTE MANAGEMENT DIVISION
TELEPHONE (813) 272-5788

WETLANDS MANAGEMENT DIVISION
TELEPHONE (813) 272-7104

July 09, 1997

ENVIRONMENTAL PROTECTION COMMISSION
OF HILLSBOROUGH COUNTY
POLLUTION RECOVERY TRUST FUND

Fund Balance July 09, 1997

\$748,450.00

Encumbrances Against Fund Balance:

Cypress Head Swamp	32,747.00
Carmichael Dump	30,000.00
Wetland Surveys	4,781.00
Lake Chapman Sea.	4,000.00
Seagrass Study/Sheriff	22,876.00
HCC/USF	90.00
Art. Reef FY97	31,482.00
Art. Reef FY98	94,251.00
Clayton Lake	34,314.00
Mosi Restoration	55,500.00
Oakview Utilities	75,000.00
Riverview Civic Center	40,000.00
Thalasssea Study	56,000.00

Total of Encumbrances

481,041.00

Fund Balance Available July 09, 1997

\$267,409.00



COMMISSION

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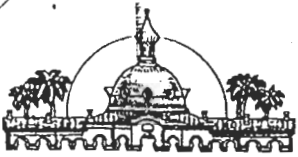
ENVIRONMENTAL PROTECTION COMMISSION
OF HILLSBOROUGH COUNTY
ANALYSIS OF GARDINIER SETTLEMENT TRUST FUND
AS OF JULY 09, 1997

Fund Balance as of 10/01/96	\$1,362,735.00
Interest Accrued FY97	53,672.00
Disbursements FY97	(19,141.00)
Fund Balance	<u>\$1,397,266.00</u>

Encumbrances Against Fund Balance:

Alafia River, Add. (SWIM/DEP)	9,566.00	
McKay Bay Restoration (COT)	50,000.00	
Cockroach Bay Exotic Con. (HCC)	8,618.00	
Hillsborough School /Nurserys	8,167.00	
Alafia River/Wolf Branch	300,000.00	
Ballast Point Seawall Phase II	25,000.00	
Audubon Society Riverview CC	50,000.00	
Oakview Utilities	50,000.00	
Total of Encumbrances		<u>501,351.00</u>

Fund Balance Available July 09, 1997	\$ 895,915.00
--------------------------------------	---------------



Hillsborough
County

Board of County
Commissioners

JOE CHILLURA, JR.
COUNTYWIDE
COMMISSIONER

COUNTY CENTER
601 E. KENNEDY BOULEVARD
TAMPA, FLORIDA 33602

PHONE: (813) 272-5735
FAX: (813) 272-7054

Memorandum

To: Commissioner Jan Platt, Chairman
Environmental Protection Commission
From: Joe Chillura, Jr., Countywide Commissioner
Subject: Environmental Protection Commission - Change in Make up
Date: May 29, 1997

Jan:

As per the Board's discussion on May 28, 1997, regarding membership of the Environmental Protection Commission, please schedule a discussion of EPC membership separate from the Board of County Commissioners. This can be accomplished at our Thursday, June 19 EPC Meeting or the following meeting scheduled for July 17, 1997.

Please advise.

JC/sbb

cc: Board of County Commissioners
Daniel Kleman
Roger Stewart

Attachment

**ENVIRONMENTAL PROTECTION COMMISSION
OF HILLSBOROUGH COUNTY
COMMISSIONER'S BOARD ROOM
JULY 17, 1997
9 AM - 12 NOON**

ADDENDUM

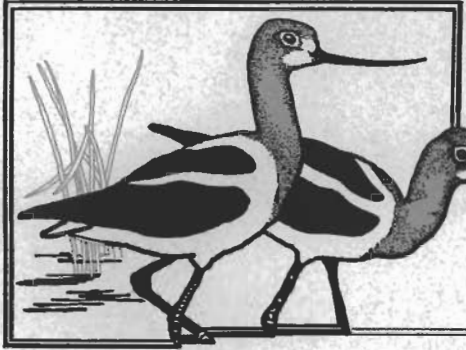
COMMISSIONER'S REQUESTS

Stephen Dibbs Site - (Comm. Platt)

A1

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.

KC: BOCC



RECEIVED
JUN 30 1997

COMMISSIONER
PLATT'S OFFICE
Post Office Box 320025
Tampa, FL 33679

Tampa Audubon Society

June 19, 1997

Commissioner Jan Platt, Chair
Environmental Protection Commission
County Center
601 Kennedy Blvd., East
Tampa, FL 33602

SUBJECT: STEPHEN DIBBS SITE AT SOUTHWEST CORNER OF HOEDT ROAD AND DALE MABRY HIGHWAY

Dear Commissioner Platt:

Tampa Audubon Society is very concerned about events that have occurred at the Stephen Dibbs property on Dale Mabry Highway at Hoedt Road.

Mr. Dibbs was originally allowed to destroy two acres of cypress swamp over the objections of EPC staff and numerous environmental organizations. Mr. Dibbs then decided that to maximize the profits he will realize from this property, he needed to destroy an additional three acres of the cypress swamp. Wetlands in Hillsborough County are supposed to be protected by Chapter 1-11, the Wetland Rule.

To date, Mr. Dibbs has not signed an agreement with the EPC that would allow him to fill in the additional three acres of cypress swamp. Mr. Dibbs has already destroyed the additional acreage, without approvals. In addition, he has allowed turbid water discharges and sediment impacts to the small portion of the original swamp that remains. Finally, Mr. Dibbs has not submitted the required monitoring and maintenance reports for the mitigation area that he was required to create as compensation for the wetland impacts.

EPC staff have issued four separate warning notices for the violations summarized above. All four warning notices are still open, without resolution. Mr. Dibbs appears to be ignoring EPC staff in their attempts to resolve these violations.

Tampa Audubon Society feels that the Commission should authorize EPC Chief Counsel to file suit against Mr. Dibbs. If Chief Counsel is reluctant to confront Mr. Dibbs and his attorneys, then the County Attorney should be authorized to address this serious matter.

Mr. Dibbs property is located along a very heavily travelled portion of Dale Mabry and is thus highly visible to thousands of County residents every day. To ignore these environmental violations sends a clear message to the citizens of Hillsborough County that the Wetland Rule does not really apply if you have enough money to circumvent the process. It appears that all one has to do to destroy a wetland is threaten to sue the Commission; and violations, no matter how serious, will be ignored.

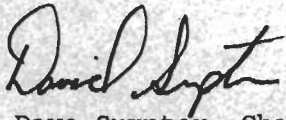
Refusing to take appropriate action on this case will set a dangerous precedent and allow the destruction of wetlands countywide. You can be assured that developers are watching the Dibbs property with great interest.

Hillsborough County has one of the strongest local wetland protection programs in the nation. Let's not allow this exemplary program to be weakened for the profit of a few landowners.

Commissioner Jan Platt
June 19, 1997
Page Two

We would like the opportunity to discuss this with you at your earliest convenience.

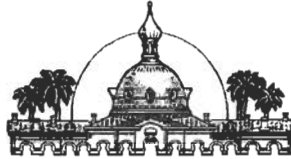
Sincerely,



Dave Sumpter, Chair
Conservation Committee
Tampa Audubon Society

cc: Commissioner Ed Turanchik
Commissioner Jim Norman
Commissioner Dottie Berger
Commissioner Chris Hart
Commissioner Joe Chillura
Commissioner Thomas Scott
Dan Savercool, President Tampa Audubon

BOARD OF COUNTY COMMISSIONERS



Hillsborough County
Florida

MEMORANDUM

Chairman
Dottie Berger, District 4

Vice Chairman
Ed Turanchik, District 1

Jim Norman, District 2
Thomas Scott, District 3
Chris Hart, District 5
Jan Platt, District 6
Joe Chillura, District 7

P.O. Box 1110
Tampa, Florida 33601
(813) 272-5660

Daniel A. Kleman, County Administrator

To: Roger Stewart, EPC
From: Jan Platt, County Commissioner
Subject: Stephen Dibbs Site
Date: July 8, 1997

JKP

Please place the attached letter from Tampa Audubon Society on the July 17th EPC agenda for consideration. Please assure that appropriate staff is prepared to respond.

JKP/cl

cc: EPC Members
Dave Sumpter
Dan Savercool

REC'D

JUL 10 1997

**ENV. PROT. COMM.
OF H.C.**