

**ENVIRONMENTAL PROTECTION COMMISSION
OF HILLSBOROUGH COUNTY
COMMISSIONER'S BOARD ROOM
SEPTEMBER 18, 1997
10 AM - 12 NOON**

AGENDA

I. PUBLIC HEARING

- | | |
|--|----|
| A. Consider Amendments to Chapter 1-11, Relating to Wetlands (10AM) | 1 |
| B. Consider Adoption of Resolution For Cockroach Bay Management Plan | 15 |

II. CONSENT AGENDA

- | | |
|-------------------------------------|----|
| A. Approval of Minutes: None | |
| B. Monthly Activity Reports | 18 |
| C. Legal Department Monthly Reports | 34 |
| D. Pollution Recovery Fund | 38 |
| E. Gardinier Settlement Fund | 39 |

III. CITIZEN'S ADVISORY COMMITTEE

Items of Interest

IV. EXECUTIVE DIRECTOR

- | | |
|---------------|----|
| Medfly Update | 40 |
|---------------|----|

V. WASTE MANAGEMENT DIVISION

Authorize Executive Director to Execute:

- | | |
|--|----|
| A. DEP Petroleum Compliance Contract | 49 |
| B. DEP Petroleum Cleanup Contract (to be provided separately) | |
| C. Report to Commission on Efforts to Coordinate Building Permit Reviews | |

VI. 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.

AGENDA ITEM COVER SHEET

Date: September 18, 1997

Agenda Item: (1) Public Hearing on Wetland Rule Amendment
(2) Resolution regarding Cockroach Bay

Description/Summary:

In an effort to refine the regulatory activities of the agency and ensure consistency and common sense, the Commission **asked the CEAC to review** all rules except the Wetland Rule. A few months later, the Commission reconsidered its limitation and asked CEAC to also review the Wetland Rule.

CEAC held several meetings at which public comment regarding the Wetland Rule was received. Thereafter, CEAC established a subcommittee to review and make specific comments on how the rule might be improved. The subcommittee met numerous times over several months, resulting in several recommendations of a technical nature. The recommendations were submitted to and reviewed by CEAC during its meetings in July and August, and will be finally considered by CEAC on September 15th.

The attached amendment is the result of CEAC's work (except for any changes following the September 15th meeting). The proposed changes reorganize the rule and provide structure and word changes without altering the substantive requirements of the rule:

- ◆ reorganizing to include Part II's provisions on **Intent Regarding Marine Wetlands, Approved Activities, and Prohibitions** within the respective sections of Part I;
- ◆ adding seagrass beds to the list of examples in the definition of Wetlands;
- ◆ expanding Wetland Recovery Areas in Part II to **include non-marine wetlands**;
- ◆ combining the requirements for Recovery Area Management Plans from Parts II and III into Part II and deleting the Cockroach Bay Management Plan in Part III;
- ◆ clarifying that mitigation for impacted wetlands **must comply** with applicable state permit requirements;
- ◆ making technical and word changes throughout for clarification and easier readability and correcting reference numbers to state rules.

Management Plans consistent with the Rule, as amended, can be adopted by the Commission and kept on file. Since the Cockroach Bay Management Plan is not yet concluded, adoption of a resolution would be appropriate to ensure a complete record of the existing plans kept on file with the Commission.

Board Action Recommended:

- (1) Recommend adoption of amendment to Chapter 1-11
- (2) Recommend adoption of Resolution for Cockroach Bay Management Plan

A RULE

AMENDING THE WETLAND RULE BY REORGANIZING CHAPTER 1-11 TO INCLUDE PART II'S PROVISIONS ON INTENT REGARDING MARINE WETLANDS, APPROVED ACTIVITIES, AND PROHIBITIONS WITHIN THE RESPECTIVE SECTIONS OF PART I; ADDING SEAGRASS BEDS TO THE LIST OF EXAMPLES IN THE DEFINITION OF WETLANDS; EXPANDING WETLAND RECOVERY AREAS IN PART II TO INCLUDE NON-MARINE WETLANDS; COMBINING THE REQUIREMENTS FOR RECOVERY AREA MANAGEMENT PLANS FROM PARTS II AND III INTO PART II AND DELETING PART III; CLARIFYING THAT MITIGATION FOR IMPACTED WETLANDS MUST COMPLY WITH APPLICABLE STATE PERMIT REQUIREMENTS; MAKING TECHNICAL AND WORD CHANGES THROUGHOUT FOR CLARIFICATION AND EASIER READABILITY; CORRECTING REFERENCE NUMBERS TO STATE RULES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Environmental Protection Commission of Hillsborough County is empowered by Chapter 84-446, Laws of Florida to adopt and amend from time to time rules to provide for the protection of the environment, and

WHEREAS, the Commission determines that it is reasonably necessary for the effective and efficient implementation of Chapter 84-446, Laws of Florida to amend its rule relating to wetland protections to clarify and simplify its provisions making it easier to read and understand, but without changing the obligations and burdens imposed upon the citizens of the County, and

WHEREAS, the Commission published due notice of its intent to consider adoption of amendments to its Wetland Rule, Chapter 1-11, 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 1-11, Rules of the Environmental Protection Commission, is readopted and amended to read as follows:

CHAPTER 1-11, WETLAND RULE

PART I

1-11.01 Intent Purpose

1. The intent ~~It is the purpose~~ of this rule is to provide ~~consistency with the statewide standards for the identification and delineation of wetlands, as well as providing~~ local standards for the protection, maintenance and utilization of wetlands within Hillsborough County, while providing consistency with the statewide standards for the identification and delineation of wetlands, recognizing the rights of individual property owners to use their lands in a reasonable manner as well as the rights of all citizens to protection and purity of the waters of Hillsborough County and their associated wetland ecosystems. It is the policy of the State of Florida and the Environmental Protection Commission to preserve the essential character of wetland property. The owner of wetlands has no right to ~~change the essential character of wetland property so as to use them~~ it for a purpose for which they are ~~it is~~ unsuited in their ~~its~~ natural state. It shall be the priority policy of the Environmental Protection Commission to avoid minimize the disturbance of wetlands in the County and to encourage their use only for purposes which are compatible with their natural functions and environmental benefits. It is the intent of the Commission that development requiring mitigation be a last resort used only when reasonable use of the property is otherwise unavailable.

2. Marine wetlands are particularly valuable ~~significant~~ resources to the residents of the county, providing protection to water quality in the bay, prevention of erosion and siltation, and natural habitat for aquatic life upon which the local economy is dependent. Their importance to the ecological system and values of the Tampa Bay region requires that they be protected from the ~~avoidable~~ adverse impacts of human ~~man's~~ activities. The Commission will use available resources and media to provide information to the public, especially boaters and swimmers, regarding the nature, value and fragility of marine wetlands, and so to enlist their assistance in avoiding such adverse impacts as much as possible.

1-11.02 Definitions

1. The definitions contained in section 62 ~~47~~-340.200 F.A.C. are adopted by reference.

2. The following definitions shall apply for purposes of this rule unless a contrary meaning is clearly indicated:

a.-b. Adverse Impact - a negative affect upon a wetland, resulting from development which contaminates, alters or destroys, or which contributes to the contamination, alteration or destruction of a wetland or portion thereof such that its environmental benefits are destroyed, reduced or impaired or which threatens their present or future functioning, ~~has an adverse impact upon the wetland involved.~~

1 b.f. Altered wetlands - wetlands which have been substantially ~~been~~ affected by
2 development, but which continue to provide some environmental benefit as provided in 1-11.06.

3 c.a. Development - any man-made change to real property, including but not limited to
4 dredging, filling, grading, paving, excavating, clearing, timbering, ditching or draining.

5 ~~d. Artificially created waters - waters created by man in upland areas.~~

6 d.g. Mitigation Plan - specific development activities designed to restore, create, or
7 replace environmental benefits of wetlands within the area.

8 e.h. Mitigation Wetlands - wetlands created or restored for mitigation purposes
9 pursuant to agreement with governmental officials.

10 f.i. Recovery Areas - ~~are those marine wetland~~ areas designated by the Commission
11 pursuant to Section 1-11.20 ~~1-11.21~~ as requiring special protection to recover and restore their
12 ecosystems functions.

13 g.e. Waters of the County ~~consist of the~~ waters, both surface and underground, which
14 are located either entirely or partially within the geographic boundaries of Hillsborough County, and
15 also the physical features which regularly or seasonally contain water by inundation or saturation of
16 surface or groundwater in years of normal water conditions. Waters of Hillsborough County include
17 but are not limited to the water and containing physical features of bays, rivers, streams, lakes,
18 ponds, swamps, springs, impoundments and other waters whether naturally or artificially created
19 and whether fresh, brackish, saline or tidal.

20 h.e. Wetlands - ~~are those~~ areas as defined by section 373.019(17) F.S. included within
21 waters of the County which are inundated or saturated by surface water or ground water at a
22 frequency and a duration sufficient to support, and under normal circumstances do support, a
23 prevalence of vegetation typically adapted for life in saturated soils. Soils present in wetlands
24 generally are classified as hydric or alluvial, or possess characteristics that are associated with
25 reducing soil conditions. The prevalent vegetation in wetlands generally consists of facultative or
26 obligate hydrophytic macrophytes that are typically adapted to areas having soil conditions
27 described above. These species, due to morphological, physiological, or reproductive adaptations,
28 have the ability to grow, reproduce, or persist in aquatic environments or anaerobic soil conditions.
29 Florida wetlands generally include swamps, marshes, bayheads, bogs, cypress domes and strands,
30 sloughs, wet prairies, riverine swamps and marshes, hydric seepage slopes, tidal marshes, mangrove
31 swamps, seagrass beds, and other similar areas. Florida wetlands generally do not include longleaf
32 or slash pine flatwoods with an understory dominated by saw palmetto.

1-11.03 Identification of Wetlands

Under normal circumstances, wetlands will be identified by visual application of the definition of wetlands considering the dominance of plant species, soils and other hydrologic evidence indicative of regular and periodic inundation or saturation.

1-11.04 Delineation of Wetlands

1. Sections 62 47-340.300, 62 47-340.400, 62 47-340.450, 62 47-340.500, 62 47-340.550, and 62 47-340.600 F.A.C. providing the statewide method as amended by the Legislature for delineating wetlands in Florida, are adopted by reference. Qualified developments granted vested or grandfathered rights pursuant to Section 373.421(7) F.S. shall be delineated as provided therein.

2. Upon request of any person with a legal or equitable interest including governmental bodies, and upon payment of the appropriate fee as established in Chapter 1-6 of these Rules, a formal determination approving a certified survey, or an approximate delineation as reflected on a scaled site plan, shall be issued as to the existence and extent of any wetlands upon specific lands within Hillsborough County. Failure to make a wetland determination within 30 days of receipt of a complete request and payment therefore shall entitle the applicant upon appropriate notice, to a hearing before a hearing officer as provided in Section 9 of Chapter 84-446, Laws of Florida.

3. Delineations ~~may be made upon interpretation of aerial photography~~ are alone, ~~but shall be approximations only~~, subject to modification by future on-site inspection.

4. Delineations pursuant to a formal determination or pursuant to a DEP or SWFWMD permit where the delineation was field-verified by EPC staff and specifically approved in the permit shall be binding for five years provided physical conditions on the property do not change to alter the boundaries during that time.

5. ~~All other determinations made prior to the effective date of this rule shall be presumptively valid only.~~

~~6.~~ This section shall not be construed as limiting the right of any citizen to register a complaint or request investigation of an alleged violation.

1-11.05 Pollution Prohibited

1. Development within wetlands of Hillsborough County which destroys, reduces or impairs the wetland or which contributes to the present or potential future destruction, reduction or impairment of the environmental benefits provided by the wetland or a portion thereof constitutes pollution as defined by Chapter 84-446, Laws of Florida, as amended, and is prohibited except to the extent as may be hereafter specifically authorized ~~and only if authorized~~ in writing by the Executive Director or his authorized agent.

1 ~~2.-1.~~ The intentional or knowing destruction of marine wetlands by filling, excavation,
2 dredging, contamination, or other development as defined herein, except as provided in section 1-11.07
3 ~~1-11.24~~, is a violation of this rule. Ordinary fishing practices (such as casting a line, using tackle or nets,
4 anchoring, etc.) shall not be construed as destruction of marine wetlands when conducted outside of
5 designated marine Recovery Areas.

6 ~~3.2-~~ Knowing failure to comply with the restrictions of a management plan within a
7 designated Recovery Area is a violation of this rule.

9 **1-11.06 Review of Proposed Development Within Wetlands**

10 1. Upon request to the Environmental Protection Commission a review of proposed
11 development of wetlands will be made by weighing the specific environmental benefits provided by the
12 target wetland with the impact that the proposed development could reasonably be expected to have upon
13 the wetland's ability to provide those environmental benefits. Environmental benefits include, but are not
14 limited to, the ability to

- 15 a. receive, store and discharge surface water runoff so as to contribute to hydrological
16 stability and control of flooding and erosion;
- 17 b. buffer adjacent uplands from hurricane and tidal storm surges;
- 18 c. recharge the groundwater;
- 19 d. provide filtration and uptake of nutrients and pollutants from surface water runoff;
- 20 e. provide habitat for fish, wildlife or other forms of animal or plant life;
- 21 f. provide a link in the food chain of fish, wildlife or other forms of animal or plant
22 life;
- 23 g. provide habitat for any rare, endangered or threatened species of animal or plant
24 life which utilize wetland habitats as listed by the Florida Game and Fresh Water Fish Commission
25 and/or the U.S. Fish and Wildlife Service;
- 26 h. provide a significant ecological function in the life cycle of fish, wildlife or other
27 forms of animal or plant life of neighboring habitats; ~~and~~
- 28 i. function as an integral part of a surface water course, lake or bay; and
- 29 j. increase rainfall production through available evaporative surfaces.

30 2. Consideration shall ~~may~~ be made of cumulative impacts of the proposed development to the
31 wetland system in combination with other developments which have been or may be proposed in the same
32 drainage basin.

33 3. Consideration shall ~~may~~ be made of the technical feasibility of proposed mitigation plans and
34 the likelihood of their success in restoring or replacing the environmental benefit impacted by the
35 development.

4. Consideration shall be made of the wetland's existing capacity to provide environmental benefits because of such factors as maturity, size, degree of prior alteration, physical relationship to other water systems, and adjacent land uses.

Section 1-11.07 Environmental Protection Commission Authorization

1. Written authorization may be given to conduct proposed development affecting wetlands only if reasonable use of the land cannot be accomplished without affecting the wetland, and only if the environmental benefits provided by the affected wetland are adequately protected by specified conditions and time limitations which would be imposed upon approval of the development.

2. Projects which otherwise would be violations of this rule may be permitted within ~~marine~~ wetlands if a permit, reviewed by the Commission and subject to specific conditions, is obtained from the Tampa Port Authority. ~~Failure to comply with the conditions of permit is a violation of this rule.~~

~~3. 2. The Commission may require that an applicant provide proof of financial responsibility to ensure proper and successful completion of a mitigation plan. Financial responsibility may be established and assured by a number of methods, including but not limited to: performance bond, irrevocable letter of credit, deposit of cash or cash equivalent into an escrow account, or guarantee bond. The Commission will accept suitable financial responsibility mechanisms held by other regulatory agencies upon assurance that the fund be available to EPC to complete the approved mitigation requirements. In certain cases the Commission may require the posting of a bond to ensure the proper completion of a mitigation plan.~~

~~4. 3. Development pursuant to such authorization shall be periodically inspected to ensure compliance with the conditions imposed. Failure to comply with any condition, including conditions contained in a Tampa Port Authority permit, shall be a violation of this rule subject to administrative and judicial enforcement and penalties under Chapter 84-446, Laws of Florida.~~

Section 1-11.08 Minimum Requirements of a Mitigation Plan

1. Where wetlands are or may be adversely impacted by development, an acceptable mitigation plan shall include detailed plans designed to compensate for ~~minimize or prevent~~ any adverse impact to the environmental benefits.

2. Where all or part of a wetland is destroyed or substantially altered by development, an acceptable mitigation plan shall include at least

- a. acre for acre replacement of the same or better type of wetland providing the environmental benefits lost by reason of the proposed development. All such replacements must comply with applicable state Environmental Resource Permit requirements;

- 1 b. specific design requirements based upon conditions of the site and the type of wet-
- 2 land to be created or restored;
- 3 c. a schedule ~~Periodic monitoring~~ to remove exotic or ~~and~~ nuisance vegetation;
- 4 d. monitoring and replacement to assure a specified survival rate of wetland
- 5 vegetation for a reasonable period ~~of time~~ as specified in the plan; and
- 6 e. recorded designation as a permanent conservation area or easement. Whenever
- 7 the area to be preserved exceeds 0.5 acres, the conservation area must be recorded as a
- 8 conservation easement.
- 9 3. An acceptable mitigation plan shall be reasonable ~~reasonably~~ and technically feasible.

11 **1-11.09 Adequate Protection**

12 Only development under the following circumstances may, at the discretion of the Executive

13 Director, be determined to provide adequate protection of the environmental benefits:

14 1. Where the adverse impact is of a temporary nature and an acceptable mitigation plan will

15 restore the wetland to provide its previous environmental benefit at the earliest feasible time. Temporary,

16 for purposes of this part, means a reasonable time considering the activity involved, but any impact of more

17 than a year's duration ~~ease over one growing season~~ shall require a Commission vote of approval;

18 2. Where the adverse impact is to previously altered wetlands and an acceptable mitigation plan

19 will recreate in proximity to the original wetland the same type of wetland with equivalent or greater

20 **capacity to provide** the same environmental benefits. However, mitigation wetlands may not be developed

21 if the only justification for development ~~reason~~ is that they are altered wetlands.

22 3. Where the adverse impact is completely confined to such a small area as to be of nominal ~~no~~

23 consequence to the wetland system, such as may occur with docks or boardwalks on pilings.

24 4. Where the adverse impact has limited effect on existing environmental benefits so as to not

25 be contrary to the public interest, and an acceptable mitigation plan will create in an adjoining portion of

26 the wetland the same type of wetland to provide the same environmental benefits;

27 5. Where the adverse impact is offset by the benefit of the development to the public, such that

28 it is clearly in the public interest and an acceptable mitigation plan is proposed. Examples may include, in

29 appropriate circumstances, the construction of public roads or other public works;

30 6. Where adverse impact can be prevented by appropriate precautions, such as control of the

31 quantity and quality of stormwater run off into isolated wetland systems; or

32 7. Where, upon favorable recommendation of the Executive Director and approval by the

33 Commission, adverse impact is to previously altered wetlands, and a mitigation plan will incorporate the

34 preservation of valuable uplands, which are ecologically connected to waters of the county and which aug-

35 ment some wetland function of those waters, and the preserved upland acreage is twice that of a disturbed

1 herbaceous wetland or three times that of a disturbed forested wetland. Applicants proposing such upland
 2 mitigation shall provide 15 days written notice to owners of adjacent property and to each registered
 3 neighborhood organization within 1 mile of the proposed impact, a description of the mitigation proposal,
 4 the name and telephone number of a contact for more information, and the date and time when the matter
 5 will be considered by the Commission. Staff will not recommend, nor will the Commission approve any
 6 project without assurance that "no net loss" criteria are met.

8 PART II

9 WETLAND RECOVERY AREAS

10 ~~1-11.20~~ Intent Regarding Marine Wetlands

11 ~~—Marine wetlands are significant resources to the residents of the county, providing protection to water~~
 12 ~~quality in the bay, prevention of erosion and siltation, and natural habitat for aquatic life upon which the~~
 13 ~~local economy is dependent. Their importance to the ecological system and values of the Tampa Bay~~
 14 ~~region requires that they be protected from the avoidable adverse impacts of man's activities. The~~
 15 ~~Commission will use available resources and media to provide public information to the boating and~~
 16 ~~swimming public of the county regarding the nature, value, and fragility of marine wetlands, and so to enlist~~
 17 ~~the public's assistance in avoiding such adverse impacts as much as possible.~~

19 1-11.20 Designation of Recovery Areas

20 The Commission may, in an advertised public hearing, designate a wetland as a Recovery Area
 21 and adopt a management plan if:

- 22 1. the wetland has been damaged by or is in jeopardy from known or unknown causes, and
- 23 2. the wetland can reasonably be expected to recover or be restored if the area is protected
 24 through appropriate limitations and a management plan.

26 1-11.21 Delineation of the Marine Wetland Recovery Areas

27 1. ~~Marine Wetlands designated as Recovery Areas shall be delineated and described in such~~
 28 ~~manner as best suited to the purpose, and so as to minimize navigation and safety concerns. Mappings and~~
 29 ~~descriptions of any designated Recovery Area shall be kept on file with the Commission and made available~~
 30 ~~for inspection upon request. Informational markings may be posted on site as appropriate.~~

31
 32 ~~—2. When marine wetlands are identified as stressed with significant actual physical damage contrary to~~
 33 ~~the public interest which is demonstrated to be due to known causes or requiring research to determine the~~
 34 ~~causes, and where it is reasonably expected that the wetlands will recover or be restored if the area is~~
 35 ~~protected through appropriate limitations and a management plan, then the Commission may, in an~~

1 ~~advertised public hearing, designate the wetlands as a Recovery Area, and adopt a management plan~~
2 ~~designed to provide the necessary protection. The management plan may be modified or extended by the~~
3 ~~Commission as appropriate.~~

4 ~~— 3. Recovery Areas shall automatically cease to be subject to restrictions of the applicable management~~
5 ~~plans upon expiration of the time for which the designation was adopted, unless extended by the~~
6 ~~Commission. The Commission may dissolve the designation at a public hearing advertised for that purpose.~~

7 ~~— 4. Management plans may include prohibitions or limitations of specific uses, types of equipment or~~
8 ~~vessels, type or quantity of discharge, times of use, and provisions for planting of impacted species,~~
9 ~~augmented public education, increased monitoring, or the like as are specifically tailored to avoid or prevent~~
10 ~~the cause of the damage without unnecessarily restricting non-damaging uses. Restrictions will be imposed~~
11 ~~for a specified time period and may be extended at a public hearing advertised for that purpose, and will be~~
12 ~~subject to specific criteria and monitoring to determine success and effectiveness.~~

13 2. The Recovery Area may be marked and signs posted on site as appropriate.

14
15 ~~11.22 Prohibitions~~

16 ~~— 1. The intentional or knowing destruction of marine wetlands by filling, excavation, dredging, prop-~~
17 ~~dredging, contamination, or other development as defined herein, except as provided in section 11.24, is a~~
18 ~~violation of this rule; ordinary fishing practices (such as casting a line, using tackle or nets, anchoring, etc.)~~
19 ~~shall not be construed as destruction of marine wetlands when conducted outside of designated Recovery~~
20 ~~Areas.~~

21 ~~— 2. Knowing failure to comply with the restrictions of a management plan within a designated Recovery~~
22 ~~Area is a violation of this rule.~~

23
24 ~~11.23 Criteria, Monitoring, Evaluation~~

25 ~~— 1. The Director shall establish and implement a specific monitoring plan for any marine wetland~~
26 ~~designated as a Recovery Area to determine the success or failure of the management plan.~~

27 ~~— 2. Criteria for evaluating whether a management plan restriction is appropriate shall include:~~

28 ~~— a) whether the unrestricted activity will, in reasonable scientific judgment, adversely affect~~
29 ~~endangered or threatened species, or species of special concern as to nesting, reproduction, food source,~~
30 ~~habitat, or cover, or affect the vegetation itself;~~

31 ~~— b) whether the unrestricted activity will significantly and adversely affect available habitat for fish,~~
32 ~~or the existence and reproduction of aquatic life, or will result in the emigration from adjacent or associated~~
33 ~~ecosystems and macro habitats;~~

34 ~~— c) whether the unrestricted activity will have an adverse impact upon existing biological and~~
35 ~~ecological systems;~~

~~d) whether the activity is a principal cause of the impairment or is preventing recovery of an impaired system or habitat;~~

~~e) whether the activity is a normal or historic use of the area.~~

~~3. Criteria for monitoring and evaluating management plan success shall include:~~

~~a) percent of vegetative cover over an identified area;~~

~~b) identification and species diversity, estimated population size or biomass;~~

~~c) visibility and water quality; and~~

~~d) biological monitoring.~~

~~11.24 Approved Activities~~

~~Projects which otherwise would be violations of this rule may be permitted within marine wetlands if a permit, reviewed by the Commission and subject to specific conditions, is obtained from the Tampa Port Authority. Failure to comply with the conditions of the permit is a violation of this rule.~~

1-11.22 Management Plans

Management Plans will be developed by the Executive Director and adopted by the Commission, and will be kept on file. A Management Plan may include:

1. prohibitions or limitations of specific uses or activities; types of equipment, vehicles, or vessels; type or quantity of development, or times of use. Such limitations must be tailored to avoid or prevent further damage, but they should not needlessly restrict non-damaging uses. Prohibitions or limitations are appropriate when the unrestricted activity would, in reasonable scientific judgment, adversely effect or impair:

a. endangered or threatened species of special concern as to nesting, reproduction, food source, habitat or cover or affect the vegetation itself;

b. available habitat for fish and aquatic life or result in emigration from adjacent or associated ecosystems and macro habitats;

c. existing biosystems or ecosystems; or

d. recovery of an impaired system.

2. provisions for planting of appropriate aquatic plants, augmented public education, increased monitoring or the like;

3. a time limit for imposing the restrictions, which may be extended at an advertised public hearing, or a timetable to accomplish specified goals;

4. specific criteria to determine success and effectiveness of the Management Plan.

1 1-11.23 Monitoring and Evaluation

2 The Commission shall establish and implement a specific monitoring plan to determine the
 3 success or failure of the Management Plan. Criteria may include:

- 4 1. percent of vegetative cover over an identified area;
 5 2. identification and species diversity, estimated population size or biomass; and
 6 3. water clarity visibility for submerged systems and water quality.

7
 8 1-11.23 Termination of Recovery Area Restrictions

9 Upon determining that optimum recovery of the damaged wetlands has occurred and that further
 10 restrictions are unnecessary, the Commission may rescind the restrictions placed on the Recovery Area
 11 by a public announcement, reserving the right to reinstate restrictions if necessary for the protection of
 12 the wetlands.

13
 14 PART III

15 ~~1-11.30 Intent Regarding Cockroach Bay Recovery Areas~~

16 ~~It is the Commission's intent to temporarily restrict and regulate boating activities within the~~
 17 ~~Cockroach Bay area so that the marine wetlands and seagrasses have an opportunity to recover and restore~~
 18 ~~themselves as a significant public resource. The designation of restricted recovery areas made in this part is~~
 19 ~~limited to three years and shall expire at the end of said time without further action of the Commission,~~
 20 ~~unless shortened or lengthened by subsequent act of the Commission.~~

21 ~~1-11.31 Designation of Cockroach Bay Recovery Areas~~

- 22 ~~1. Recovery Area #1 includes the area of shallow depths extending from the southern point of Camp~~
 23 ~~Key to Cockroach Channel and around Paradise Key, excluding Cockroach Channel.~~
 24 ~~2. Recovery Area #2 includes the broad area within Cockroach Bay of interconnected mangrove~~
 25 ~~islands, shallow depths exposed at lowest tides (e.g., South Stop and the area between Big Cockroach Pass~~
 26 ~~and Hole in the Wall Pass), and numerous constricted passes (e.g., Buoy Pass, Beacon Pass).~~
 27 ~~3. Recovery Areas #3 and #4 include the shallow depths on both the north and south sides of Hole in~~
 28 ~~the Wall Pass in Cockroach Bay, excluding a 20 foot wide channel through the pass.~~
 29 ~~4. The boundaries of the above designated Recovery Areas will be depicted on maps of the Cockroach~~
 30 ~~Bay area, made available at the Commission offices and posted at various boat ramps, public docks and~~
 31 ~~mooring facilities; and will be further identified by channel markers and tide markers located at the~~
 32 ~~appropriate sites.~~

1 ~~11.31 Prohibitions~~

2 ~~—1. Except for authorized research and law enforcement vessels, all watercraft are prohibited in~~
3 ~~designated Cockroach Bay Recovery Areas #1, #3 and #4. The marked navigation channels of Hole in the~~
4 ~~Wall Pass are not included in this prohibition. All watercraft with internal combustion engines, except for~~
5 ~~authorized research and law enforcement vessels, are prohibited in designated area #2.~~

6 ~~—2. Any vessel found within a designated Cockroach Bay Recovery Areas at any time, must identify~~
7 ~~himself, his home address, and the vessel registration number upon demand by a law enforcement officer,~~
8 ~~the preserve manager or Commission staff. Failure to provide the appropriate information shall be in~~
9 ~~violation of this rule and subject to enforcement.~~

10
11 ~~11.33 Management Plan for Cockroach Bay Recovery Areas; Monitoring~~

12 ~~—1. Public education programs identified in the final Task Force Report and 1994 Annual Status Report,~~
13 ~~including signage, pamphlets, and notices, shall be implemented in coordination with other agencies,~~
14 ~~specific to Cockroach Bay and its associated ecological functions.~~

15 ~~—2. Hole in the Wall Pass will be marked so that vessels will be able to identify and remain within its~~
16 ~~boundaries.~~

17 ~~—3. Tide markers will be designed and installed at the perimeters of Cockroach Bay Recovery Areas to~~
18 ~~alert boaters of the restrictions.~~

19 ~~—4. Marine Deputies and an Aquatic Preserve Manager shall work together to assure a maximum~~
20 ~~reasonable regulatory presence in the designated recovery areas, day and night. In the course of their~~
21 ~~responsibilities, they will make available to the public educational materials regarding the importance of~~
22 ~~marine ecosystems and seagrasses.~~

23 ~~—5. A monitoring plan shall be developed to determine and demonstrate the effectiveness of prohibiting~~
24 ~~boat traffic in the Cockroach Bay Recovery Areas. The Task Force Report and 1994 Annual Status Report~~
25 ~~identify aerial photography, identification of reference sites, and regular monitoring of specific parameters~~
26 ~~for comparative purposes. Commission staff and/or an authorized contractor shall implement the~~
27 ~~monitoring plan and make appropriate reports to the Commission.~~

28 ~~—6. Appropriate parameters and technical criteria regarding vegetative cover, species diversity, and~~
29 ~~biomass will be developed and monitored to determine the recovery success of the four designated recovery~~
30 ~~areas.~~

31 ~~—7. Periodically, or at least annually at about the anniversary date of the designation of Cockroach Bay~~
32 ~~Recovery Areas, the Commission shall consider at a regular meeting, the effectiveness of the management~~
33 ~~plan in assisting recovery of seagrasses, and make such changes to the plan as necessary.~~

34

1 ~~11.34~~ Enforcement

2 ~~1. Violation of the prohibitions applicable to a designated recovery area are violations of this rule and~~
3 ~~section 17 of Chapter 84-446, Laws of Florida, as amended.~~

4 ~~2. Where appropriate, information shall be recorded regarding a vessel's registration number, the~~
5 ~~owner and/or operator, the names of persons aboard, and other such information necessary to identify the~~
6 ~~circumstances of a vessel in or adjacent to a designated recovery area.~~

7 ~~3. Without limitation to other lawful and appropriate enforcement action, the person responsible for a~~
8 ~~knowing or willful violation is subject to arrest or warrant by a law enforcement officer for a criminal~~
9 ~~misdemeanor.~~

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.

[rules\amend\proposed wetland amendment 1997]

RESOLUTION

Upon motion by Commissioner _____, which was seconded by Commissioner _____, the following resolution was adopted by _____ vote:

WHEREAS, the Commission has simplified its Wetland Rule by amendment by providing for Recovery Areas and Management Plans, but removing the plan details regarding the Cockroach Bay Recovery Area; and

WHEREAS, the Commission intends to continue the Management Plan for Cockroach Bay to its completion;

THEREFORE, it is resolved by the Environmental Protection Commission in public meeting on _____ September 1997, that the following Management Plan shall continue until its completion:

A. Intent Regarding Cockroach Bay Recovery Areas

It is the Commission's intent to temporarily restrict and regulate boating activities within the Cockroach Bay area so that the marine wetlands and seagrasses have an opportunity to recover and restore themselves as a significant public resource. The designation of restricted recovery areas made in this part is limited to three years and shall expire at the end of said time without further action of the Commission, unless shortened or lengthened by subsequent act of the Commission.

B. Designed Recovery Areas of Cockroach Bay

1. Recovery Area #1 includes the area of shallow depths extending from the southern point of Camp Key to Cockroach Channel and around Paradise Key, excluding Cockroach Channel.
2. Recovery Area #2 includes the broad area within Cockroach Bay of interconnected mangrove islands, shallow depths exposed at lowest tides (e.g., South Stop and the area between Big Cockroach Pass and Hole-in-the-Wall Pass), and numerous constricted passes (e.g., Buoy Pass, Beacon Pass).
3. Recovery Areas #3 and #4 include the shallow depths on both the north and south sides of Hole-in-the-Wall Pass in Cockroach Bay, excluding a 20 foot wide channel through the pass.

4. The boundaries of the above designated Recovery Areas will be depicted on maps of the Cockroach Bay area, made available at the Commission offices and posted at various boat ramps, public docks and mooring facilities; and will be further identified by channel markers and tide markers located at the appropriate sites.

C. Prohibitions

1. Except for authorized research and law enforcement vessels, all watercraft are prohibited in designated Cockroach Bay Recovery Areas #1, #3 and #4. The marked navigation channels of Hole-in-the-Wall Pass are not included in this prohibition. All watercraft with internal combustion engines, except for authorized research and law enforcement vessels, are prohibited in designated area #2.

2. Any vessel found within a designated Cockroach Bay Recovery Areas at any time, must identify himself, his home address, and the vessel registration number upon demand by a law enforcement officer, the preserve manager or Commission staff. Failure to provide the appropriate information shall be in violation of this rule and subject to enforcement.

D. Management Plan for Cockroach Bay Recovery Areas; Monitoring

1. Public education programs identified in the final Task Force Report and 1994 Annual Status Report, including signage, pamphlets, and notices, shall be implemented in coordination with other agencies, specific to Cockroach Bay and its associated ecological functions.

2. Hole-in-the-Wall Pass will be marked so that vessels will be able to identify and remain within its boundaries.

3. Tide markers will be designed and installed at the perimeters of Cockroach Bay Recovery Areas to alert boaters of the restrictions.

4. Marine Deputies and an Aquatic Preserve Manager shall work together to assure a maximum reasonable regulatory presence in the designated recovery areas, day and night. In the course of their responsibilities, they will make available to the public educational materials regarding the importance of marine ecosystems and seagrasses.

5. A monitoring plan shall be developed to determine and demonstrate the effectiveness of prohibiting boat traffic in the Cockroach Bay Recovery Areas. The Task Force Report and 1994 Annual Status Report identify aerial photography, identification of reference sites, and regular monitoring of specific parameters for comparative purposes. Commission staff and/or an

authorized contractor shall implement the monitoring plan and make appropriate reports to the Commission.

6. Appropriate parameters and technical criteria regarding vegetative cover, species diversity, and biomass will be monitored to determine the recovery success of the four designated recovery areas.

F. Enforcement

1. Knowing violation of the prohibitions applicable to a designated recovery area are violations of the Wetland Rule.

2. Where appropriate, information shall be recorded regarding a vessel's registration number, the owner and/or operator, the names of persons aboard, and other such information necessary to identify the circumstances of a vessel in or adjacent to a designated recovery area.

PASSED AND ADOPTED by the Environmental Protection Commission of Hillsborough County, Florida on _____.

Chairman
Environmental Protection Commission

MONTHLY ACTIVITIES REPORT
AIR MANAGEMENT DIVISION
AUGUST

A.	Public Outreach/Education Assistance:	<u>740</u>	
B.	Industrial Air Pollution Permitting		
1.	Permit Applications Received (Counted by Number of Fees Received):		
a.	Operating:	<u>7</u>	
b.	Construction:	<u>1</u>	
c.	Amendments:	<u>0</u>	
d.	Transfers/Extensions:	<u>0</u>	
2.	Delegated Permits Issued by EPC and Non-delegated Permits Recommended to DEP for Approval (Counted by Number of Fees Collected):		
a.	Operating:	<u>6</u>	
b.	Construction:	<u>9</u>	
c.	Amendments:	<u>5</u>	
d.	Transfers/Extensions:	<u>0</u>	
e.	Title V Operating:	<u>1</u>	
3.	Intent to Deny Permit Issued	<u>1</u>	
4.	General Permits	<u>0</u>	
C.	Administrative Enforcement		
1.	Documents Issued:		
a.	Notice of Intent to Initiate Enforcement	<u>2</u>	
b.	Citation	<u>0</u>	
c.	Other _____	<u>0</u>	
2.	Total Cases Initiated:	<u>7</u>	
3.	Cases Resolved:	<u>1</u>	
4.	Cases Referred to Legal Department:	<u>0</u>	
5.	Consent Orders Signed:	<u>2</u>	
6.	Contributions to the Pollution Recovery Fund: \$ 5,500.00		
	<u>Organization Name</u>	<u>Violation</u>	
		<u>Amount</u>	
a.	National Gypsum Co	Failure to Oper/Maint.	\$ 4,500.00
b.	Willamette Indus.	Oper w/o a permit	1,000.00

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>24</u>
c. Major Sources	<u>0</u>
3. Asbestos Demolition/Renovation Projects:	<u>42</u>
4. Gasoline Retailers:	<u>0</u>
5. Auto Repair Facilities:	<u>29</u>
6. Retail Auto Dealers:	<u>3</u>
7. Automotive Parts Stores:	<u>0</u>
8. Fleet Operators:	<u>11</u>
9. CFC Facilities:	<u>42</u>
E. Open Burning Permits Issued:	<u>13</u>
F. Number of DOF Permits Monitored:	<u>174</u>
G. Total Citizen Complaints Received:	<u>31</u>
H. Total Citizen Complaints Investigated:	<u>28</u>
I. Noise Sources Monitored:	<u>6</u>
J. Air Program's Input to DRI's:	<u>1</u>
K. Test Reports Reviewed:	<u>66</u>
L. Compliance:	
1. Warning Notices Issued:	<u>27</u>
2. Warning Notices Resolved:	<u>18</u>
3. Advisory Letters Issued:	<u>8</u>

FEES COLLECTED FOR AIR MANAGEMENT DIVISION
AUGUST

	Total Revenue
1. Non-delegated construction permit for an air pollution source	
(a) New Source Review or Prevention of Significant Deterioration sources	<u>\$ -0-</u>
(b) all others	<u>\$ -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>\$ 1,200.00</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>\$5,200.00</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>\$ -0-</u>
6. Notification for commercial demolition	
(a) for structure less than 50,000 sq ft	<u>\$3,040.00</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>\$ 240.00</u>
(b) renovation greater than 1000 linear feet or 1000 sq ft	<u>\$ 330.00</u>
8. Open burning authorization	<u>\$4,615.00</u>
9. Enforcement Costs	<u>\$ 265.02</u>

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

MEMORANDUM

DATE: September 11, 1997

TO: Tom Koulianos, Director, Finance and Administration through Hooshang Boostani, Director, Waste Management Division

FROM:  Tammy Reed, Executive Secretary, Waste Management Division through Sheila Luce, Enforcement/Administration, Waste Management Division

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

The following is a summary of activities for the month of August, 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>3</u>
2.	Ongoing administrative cases	
	a. Pending	<u>24</u>
	b. Active	<u>26</u>
	c. Legal	<u>13</u>
	d. Tracking Compliance (Admin.)	<u>12</u>
	e. Inactive/Referred cases	<u>22</u>
	f. Criminal compliance tracking	<u>21</u>
3.	NOI's issued	<u>1</u>
4.	Citations issued	<u>0</u>
5.	Consent Orders signed	<u>2</u>
6.	Civil contrib. to the Pollution Rec. Fund	<u>\$6,000</u>
7.	Criminal contrib. to the Pollution Rec. Fund	<u>\$7.68</u>
8.	Enforcement costs collected	<u>\$1,250</u>
9.	Cases referred to legal	<u>0</u>
10.	Cases closed	<u>3</u>



**ENVIRONMENTAL PROTECTION COMMISSION
OF HILLSBOROUGH COUNTY
COMMISSIONER'S BOARD ROOM
SEPTEMBER 18, 1997
10 AM - 12 NOON**

AGENDA

I. PUBLIC HEARING

- | | |
|--|----|
| A. Consider Amendments to Chapter 1-11, Relating to Wetlands (10AM) | 1 |
| B. Consider Adoption of Resolution For Cockroach Bay Management Plan | 15 |

II. CONSENT AGENDA

- | | |
|-------------------------------------|----|
| A. Approval of Minutes: None | |
| B. Monthly Activity Reports | 18 |
| C. Legal Department Monthly Reports | 34 |
| D. Pollution Recovery Fund | 38 |
| E. Gardinier Settlement Fund | 39 |

III. CITIZEN'S ADVISORY COMMITTEE

Items of Interest

IV. EXECUTIVE DIRECTOR

- | | |
|---------------|----|
| Medfly Update | 40 |
|---------------|----|

V. WASTE MANAGEMENT DIVISION

- | | |
|--|----|
| Authorize Executive Director to Execute: | |
| A. DEP Petroleum Compliance Contract | 49 |
| B. DEP Petroleum Cleanup Contract (to be provided separately) | |
| C. Report to Commission on Efforts to Coordinate Building Permit Reviews | |

VI. 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.

B. Solid and Hazardous Waste

1.	Permits (Received/Reviewed)	<u>44/44</u>
2.	EPC Authorization For Facilities Not Requiring DEP Permit	<u>0/0</u>
3.	Other permits and Reports	
	a. County Permits	<u>1/1</u>
	b. *Reports	<u>43/42</u>

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

4.	Inspections (total)	<u>289</u>
	a. Complaint	<u>55</u>
	b. Compliance/reinspections	<u>84</u>
	c. Facility Compliance	<u>18</u>
	d. Small Quantity Generator	<u>132</u>
5.	Enforcement	
	a. Complaints Received/Closed	<u>46/97</u>
	b. Warning Notice Issued/Closed	<u>10/16</u>
	c. Compliance Letters	<u>49</u>
	d. Letters of Agreement	<u>0</u>
	e. DEP Referrals	<u>1</u>
6.	Pamphlets, Rules and Material Distrib.	<u>448</u>

C. Underground Storage Tank - Cleanup Department

1.	Inspections:	<u>3</u>
	a. Investigation	<u>3</u>
	b. SUPER Act	<u>0</u>
2.	Reports Received/Reviewed	<u>27/28</u>
	a. Contamination Assessment (CARs)	<u>3/4</u>
	b. Initial Remedial Action (IRA)	<u>0/1</u>
	c. Remedial Action Plans (RAPs)	<u>1/3</u>
	d. Site Rehabilitation Completion (SRCs)	<u>0/0</u>
	e. Others	<u>23/20</u>

3.	Reimbursement Applications	
a.	Received	<u>6</u>
b.	Reviewed	<u>51</u>
4.	State Cleanup Site Activities	
a.	Active Sites	<u>5</u>
b.	Funds Disbursed	<u>\$33,959.44</u>
D.	<u>Underground Storage Tank Compliance Department</u>	
1.	Inspections	<u>182</u>
a.	UST Compliance	<u>78</u>
b.	AST Compliance	<u>41</u>
c.	UST Installation	<u>7</u>
d.	AST Installation	<u>1</u>
e.	UST Closure	<u>15</u>
f.	AST Closure	<u>1</u>
g.	*Other Inspections	<u>39</u>
* Note, "others inspections" include: reinspections, additional installation visits, and unregulated site inspections.		
2.	Installation Plans Reviewed	<u>15</u>
3.	Closure Plans & Reports Received/Reviewed	<u>21/14</u>
a	Closure Plans Received/Reviewed	<u>10/10</u>
b	Closure Reports Received/Reviewed	<u>11/ 4</u>
4.	Enforcement	
a.	Noncompliance Letters	<u>44</u>
b.	Warning Notices (issued/closed)	<u>4/0</u>
c.	Cases referred for Enforcement	<u>1</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>57</u>
F.	<u>Public Information Projects</u>	<u>0</u>

**ACTIVITIES REPORT
WATER MANAGEMENT DIVISION**

AUGUST, 1997

A. ENFORCEMENT

1.	New Enforcement Cases Received:	1
2.	Enforcement Cases Closed:	0
3.	Enforcement Cases Outstanding:	24
4.	Enforcement Documents Issued:	2
5.	Warning Notices:	6
	a. Issued:	2
	b. Resolved:	4
6.	Recovered costs to the General Fund:	\$ 613.73
7.	Contributions to the Pollution Recovery Fund:	\$1,825.00

	<u>Case Name</u>	<u>Violation</u>	<u>Amount</u>
a.	Eastwood Estates MHP	Improper operation & maintenance	\$200.00
b.	Town & Country MHP	Unpermitted discharges & failure to maintain effluent limits	\$500.00
c.	Crofts MHP	Improper operation & maintenance	\$200.00
d.	Alafia Riverfront MHP	Leaching	\$625.00
e.	Goodwill Store	Constructing a collection/transmission system without a permit	\$300.00

B. PERMITTING - DOMESTIC

1.	Permit Applications Received:	19
	a. Facility Permit:	2
	(i) Types I and II	0
	(ii) Type III	2
	b. Collection Systems-General:	9
	c. Collection Systems-Dry Line/Wet Line:	8
	d. Residuals Disposal:	0
2.	Permit Applications Approved:	21
	a. Facility Permit:	4
	b. Collection Systems-General:	9
	c. Collection Systems-Dry Line/Wet Line:	8
	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>0</u>
5. Permits Withdrawn:	<u>0</u>
6. Permit Applications Outstanding:	<u>45</u>
a. Facility Permit:	<u>37</u>
b. Collection Systems-General:	<u>5</u>
c. Collection Systems-Dry Line/Wet Line:	<u>3</u>
d. Residuals Disposal:	<u>0</u>
C. INSPECTIONS - DOMESTIC	<u>81</u>
1. Compliance Evaluation:	<u>12</u>
a. Inspection (CEI):	<u>2</u>
b. Sampling inspection (CSI):	<u>4</u>
c. Toxics Sampling Inspection (XSI):	<u>0</u>
d. Performance Audit Inspection (PAI):	<u>6</u>
2. Reconnaissance:	<u>55</u>
a. Inspection (RI):	<u>21</u>
b. Sample Inspection (SRI):	<u>1</u>
c. Complaint Inspection (CRI):	<u>26</u>
d. Enforcement Inspection (ERI):	<u>7</u>
3. Special:	<u>14</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>14</u>
D. PERMITTING - INDUSTRIAL	
1. Permit Applications Received:	<u>5</u>
a. Facility Permit:	<u>3</u>
(i) Types I and II	<u>3</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>0</u>
3. Permit Applications Outstanding:	<u>34</u>
a. Facility Permits:	<u>29</u>
b. General Permits:	<u>5</u>

E. INSPECTIONS - INDUSTRIAL	<u>17</u>
1. Compliance Evaluation:	<u>13</u>
a. Inspection (CEI):	<u>10</u>
b. Sampling Inspection (CSI):	<u>3</u>
c. Toxics Sampling Inspection (XSI):	<u>0</u>
d. Performance Audit Inspection (PAI):	<u>0</u>
2. Reconnaissance:	<u>4</u>
a. Inspection (RI):	<u>3</u>
b. Sample inspection (SRI):	<u>0</u>
c. Complaint Inspection (CRI):	<u>1</u>
F. CITIZEN COMPLAINTS	
1. Domestic:	<u>39</u>
a. Received:	<u>13</u>
b. Closed:	<u>26</u>
2. Industrial:	<u>1</u>
a. Received:	<u>0</u>
b. Closed:	<u>1</u>
3. Water Pollution:	<u>29</u>
a. Received:	<u>9</u>
b. Closed:	<u>20</u>
G. RECORD REVIEWS	
1. Permitting:	<u>2</u>
2. Enforcement:	<u>0</u>
H. ENVIRONMENTAL SAMPLES ANALYSED FOR:	
1. Air Division:	<u>86</u>
2. Waste Division:	<u>0</u>
3. Water Division:	<u>188</u>
4. Wetlands Division:	<u>3</u>
I. SPECIAL PROJECT REVIEWS	
1. DRI's:	<u>4</u>
2. Permitting:	<u>1</u>
3. Enforcement:	<u>0</u>
4. Other:	<u>0</u>

J. **WATER QUALITY MONITORING SPECIAL PROJECTS**

1. Data Review	<u>2</u>
2. Special Sampling	<u>4</u>
3. Biomonitoring/Toxicity Reviews (DW)	<u>21</u>
4. Biomonitoring/Toxicity Reviews (IW)	<u>0</u>
5. Other	<u>0</u>

K. **TAMPA PORT AUTHORITY/DEP DREDGE & FILL** 31

AR08.97

ASSESSMENT SECTION

A. EPC Wetlands Reviews		TOTALS
1.	Wetland Delineations	
a.	Wetland Delineations (\$100)	42
b.	Wetland Delineation Dispute	2
c.	Wetland Line Survey Reviews	34
d.	Additional Footage Fees	\$1,303.83
2.	Misc. Activities in Wetlands (\$0, \$50 or \$80 as applicable)	
a.	Nuisance Vegetation	4
b.	Other	11
3.	Impact/Mitigation Proposal (\$645)	6
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)	31
2.	Wastewater Treatment Plants (FDEP)	8
3.	FDEP Wetland Resource Apps.	0
4.	FDEP Grandfathered Delineation	0
5.	SWFWMD Wetland Resource Apps.	0
6.	Army Corps of Engineers	0

		TOTALS
7.	Interagency Clearinghouse Reviews	0
8.	Development of Regional Impact	0
C. Hills. County/ Municipality Permit Application Reviews		
1.	Land Alteration/Landscaping (\$80)	4
2.	Land Excavation (\$785 or \$650 as applicable)	2
3.	Phosphate Mining	
a.	Unit Review/Reclamation	5
b.	Annual Review/Inspection	0
4.	Rezoning	
a.	Reviews (\$70)	20
b.	Hearings	1
c.	Hearing Prep (hours)	0
5.	Site Development/Commercial (\$300)	
a.	Preliminary	5
b.	Construction	15
6.	Subdivision	
a.	Preliminary Plat (\$140)	13
b.	Master Plan (\$550)	0
c.	Construction Plans (\$250)	8
d.	Final Plat (\$90)	14
e.	Waiver of Regulations (\$100)	1
f.	Minor - Survey Subd. \$100)	3
g.	Minor - Certified Parcel (\$100)	1
7.	As-Builts	4

		TOTALS
8.	Miscellaneous Reviews (no fees)	
a.	Wetland Setback Encroachment	1
b.	Easement / Vacating	0
c.	NRCS Review	0
9.	Preapplications (no fees)	
a.	Review preparation (hours)	20
b.	Meetings/Reports	3
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)	124
2.	Other Meetings	74
3.	Telephone conferences	906
4.	Presentations	51
5.	Correspondence	207
6.	Correspondence Review (hours)	17.83
7.	Special Projects (hours)	67.75
8.	On-site visits	84
9.	Appeals	0

ADMINISTRATIVE ENFORCEMENT/ENF. COORDINATOR

A. New Cases Received	1
B. Activities	
1. Ongoing Cases	
a. Active	42
b. Legal	3
c. Tracking	37
2. Number of "Notice of Intent to Initiate Enforceme	3
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.	0
D. Contributions to Pollution Recovery	\$3,100.00
E. Enforcement Costs Collected	\$638.26
F. Special Projects	

INVESTIGATIONS/COMPLIANCE SECTION

A. Complaints

1. Received	48
2. Inspected	61
3. Closed	66

B. Warning Notices

1. Issued	12
2. Return Inspections	61
3. Closed	27

C. Mitigation

1. Compliance/Monitoring Reviews	24
2. Compliance Inspections	29

D. Other Activities

1. Case Meetings	12
2. Other Meetings	44
3. Telephone conferences	430
4. File Reviews	32
5. Cases Referred to Enforcement Coordinato	1
6. Letters	67

ADMINISTRATIVE/TECHNICAL SECTIONS

A. Soil Scientist

1. Case Reviews	9
2. Field Soil Investigations	8
3. Soil Investigation Notes/Reports	8

B. Administrative Support Staff

1. Public Record/File Reviews	4
2. Unscheduled Reviews	3
3. Telephone Assistance	1,912
4. Incoming Projects/Information	122/13
5. Additional Projects/Info logged	38/59

ENGINEERING STAFF

	22
1. Meetings	20
2. Reviews	15
3. Aerial Reviews	73
4. Telephone Inquiries	

Special Projects

- 8/13/97 Presentation to Tampa Palms CDD on stormwater ponds and wetlands.
- 8/26/97 Address SWFWMD Governing Board on Minimum Flows & Levels & EPC wetlands concerns.

LEGAL DEPARTMENT MONTHLY REPORT
September 9, 1997

A. ADMINISTRATIVE CASES

NEW CASES [1]

Gulf Coast Recycling, Inc.: EPC, under delegation from FDEP, has issued an intent to deny application for modifications to a lead recycling facility. The denial is based on a failure to demonstrate that the proposed modifications and controls represent the required level of control technology. The permit applicant has petitioned for a formal hearing under Chapter 120, Florida Statutes. Pursuant to our delegation agreement with FDEP, this matter is being referred to the Dept. of Administrative Hearings (DOAH) for processing.

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. On September 9, the Siting Board recommended the case to the Hearing Officer; 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.

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. Mediation scheduled for August 22 was canceled and is to be rescheduled.

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 in lieu of closing argument. The Administrative Law Judge, agreeing with EPC's position, has submitted his recommended order to DEP. No exceptions to the recommended order were filed within the 15 day deadline. FDEP Office of General Counsel is preparing the Final Order.

672 Recovery, Inc.: Under 84-446, Laws of Florida, Respondent 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. The applicant has requested a formal hearing under Florida Statutes, Chapter 120, regarding DEP's issuance of their intent to deny a permit necessary for the facility's continued operation. If requested, EPC staff will assist in supporting DEP's permit denial.

RESOLVED CASES [0]

B. LITIGATION CASES

NEW CASES [3]

FDOT v. Profundo, Inc., EPC, et al.; and, FDOT v. Tournament Players Association at Cheval, EPC, et al.: These are two of the petitions in eminent domain filed in connection with the Suncoast Parkway Project. EPC is named as a defendant in order to determine what compensable interest, if any, we might claim as arising from Mitigation Agreements entered into between EPC and the landowner. Investigation of EPC staff reflects that any proposed impacts to the subject mitigation sites will be compensated for as part of FDOT mitigation. EPC Disclaimers of Interest have been filed with the Clerk of the Court, reserving EPC's environmental regulatory jurisdiction.

FDOT v. TPC Cheval Community Development DST., EPC, et al.: Petition in eminent domain filed in connection with the Suncoast Parkway Project. EPC is named as a defendant in order to determine what compensable interest, if any, we might claim as arising from Mitigation Agreements entered into between EPC and the landowner. EPC staff is in the process of investigating whether or not proposed impacts to the subject mitigation sites will be compensated for as part of FDOT mitigation.

EXISTING CASES [13]

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. Defendants' Gates Motion to Dismiss set for hearing the last week of Sept.

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. Discussions with Defendant's counsel continue while awaiting formal answer to EPC's complaint.

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. The issue of abandoned tanks on the County's right of way has been separated from the operational violations, and suit has been filed against the current facility owners and operators for correction - awaiting service of process.

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.

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.

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; service by publication was not acceptable to the court in this situation and final judgment per EPC motion was not granted. Attempts to locate and serve defendant continue.

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 DEP permit application. EPC provided DEP and Metro with comments and recommendations. Although DEP has issued a permit for this facility, EPC withheld the Director's Authorization. Metro and EPC staff have met regarding the assessment of a reasonable penalty but no agreement has been reached. EPC is preparing to file suit.

RESOLVED CASES [1]

Nix v. EPC, et al.: Employee, released due to budget cuts, filed suit against the agency and individuals within the agency alleging, under the Whistle-blowers Act, that her discharge was retaliatory. EPC answered Plaintiff's Third Amended Complaint and moved for Summary Judgment. EPC's motion for judgment in our favor was granted on September 5.

COMMISSION

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

EXECUTIVE DIRECTOR

ROGER P. STEWART



ADMINISTRATIVE OFFICES, LEGAL &
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1900 - 9TH AVENUE
TAMPA, FLORIDA 33605
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AIR MANAGEMENT DIVISION
TELEPHONE (813) 272-5530

WASTE MANAGEMENT DIVISION
TELEPHONE (813) 272-5788

WETLANDS MANAGEMENT DIVISION
TELEPHONE (813) 272-7104

SEPTEMBER 11, 1997

ENVIRONMENTAL PROTECTION COMMISSION
OF HILLSBOROUGH COUNTY
POLLUTION RECOVERY TRUST FUND

Fund Balance August 30, 1997

\$756,805

Encumbrances Against Fund Balance:

Cypress Head Swamp	26,057
Carmichael Dump	30,000
Wetland Surveys	4,781
Lake Chapman Sea.	4,000
Seagrass Study/Sheriff	22,876
HCC/USF	90
Art. Reef FY97	18,073
Art. Reef FY98	94,251
Clayton Lake	27,107
Mosi Restoration	55,500
Oakview Utilities	75,000
Riverview Civic Center	40,000
Thalassea Study	56,000

Total of Encumbrances

453,735

Fund Balance Available August 30, 1997

\$303,070

ENVIRONMENTAL PROTECTION COMMISSION
Gardinier Settlement Trust Fund
Analysis as of August 1997

Sources of Funds:

Transferred From DEP 10/92	\$	1,408,989
Transferred From DEP 3/95		52,491
Interest Earned to Date		352,349
Total		1,813,829

Expenditures to Date:

Cockroach Bay Exotic Plant Control	\$	90,633		
Alafia River Restoration		290,432		
Bloomington Nature Trail		13,122		
Williams Park Pier		3,235		
Coastal Wetland Nurseries		19,141		
Total Expenditures to Date	\$		416,563	

Projects Approved - Not Yet Paid (Encumbrances):

Alafia River (SWIM/DEP)	\$	9,566		
McKay Bay Restoration		50,000		
Cockroach Bay Exotic Plant Control		8,618		
Hillsborough Schools / Nursery (Wetland Vegetation Plants)		8,167		
Alafia River / Wolf Branch		300,000		
Ballast Point Seawall Phase II		25,000		
Audubon Society Riverview		50,000		
Oakview Utilities		50,000		
Port Redwing		300,000		
Davis Tract		200,000		
Total Approved - Not Yet Paid			1,001,351	
Total (All Projects)				1,417,914

Fund Balance Available

\$ 395,915

AGENDA ITEM SUMMARY SHEET

Date: September 8, 1997

Agenda Item: Staff Comments on Proposed Legislative Initiative by CRAM (Citizens for the Responsible Application of Malathion)

Description/Summary:

Board requested at the August 21, 1997 monthly meeting that staff evaluate and comment to the three requests presented at the meeting by Ms Elaine Holmes, chairperson of the CRAM organization, who at that time requested the Board's endorsement of the requests.

In a related development, staff received a proposed legislative initiative from Ms Thalia Potter on September 2, 1997.

See attached Issue Paper for details.

Board Action Recommended:

Staff recommends the Board favorably consider the second and third request presented by Ms Holmes on behalf of CRAM. Staff does not recommend the Board favorably consider the first request.

Staff recommends the Board does not endorse this proposed legislative initiative.

The key element of the CRAM proposal is a legislative prohibition on the aerial application of pesticides and on groundspraying of pesticides where permission from a property owner has not been expressed.

Staff concurs that any application of pesticides is not desirable, but bases its recommendation on the lack of existing effective alternative pest control methodologies, and the associated significant risks to the community engendered by failing to effectively eradicate pests with a degree of immediacy and certainty.

MEMORANDUM

DATE: September 8, 1997

TO: Roger P. Stewart, Executive Director

FROM: Tony D'Aquila, MCC Coordinator

SUBJECT: Issue Paper - Staff Comments to CRAM Legislative Initiative

The formal proposal was received by staff from Ms Thalia Potter, CRAM Governmental Affairs Committee, on September 2, 1997, attached.

The proposal is in the form of a Resolution, entitled "The Freedom From Chemical Trespass Act".

The first half of the Resolution, that being composed of the seven (7) "Whereas" paragraphs, presents statements of potential deleterious impacts on individuals and the environment **that could occur or be intensified** by the application of pesticides. Staff takes no position in support of or opposed to any of these statements. At any point in time, under any various set of circumstances, some, all, or none of these statements may in fact be true.

The latter half of the Resolution contains the "Now Therefore be it resolved" paragraphs. Although the suggestions concerning Medfly control, specifically **aggressive trapping, sterile male release, and education**, have merit, the specific prohibitions **against the application of pesticides** are too broad to be acceptable.

No one will disagree that aerial spraying is undesirable and wreaks environmental havoc. Unfortunately, we may find ourselves at a crisis at some point in time, and have no alternatives. The potential eradication of a disease causing pest, say

SUBJECT: Issue Paper - Staff Comments to CRAM Legislative Initiative
September 8, 1997
Page 2

encephalitis-causing mosquitoes, is only one scenario that comes to mind. Until more benign pesticides or alternative methods, such as insect growth regulators, are perfected, our best course of action is a vigilant and aggressive monitoring and prevention program, to prevent the need for chemical eradication procedures.

On September 8, 1997, Ms Elaine Holmes faxed a written memorandum to me that reflected her verbal comments made to the Board at the August 21, 1997 meeting.

Her memorandum presents three requests: first, that the Memorandum of Understanding we are developing include what she calls "consequences" for any party that does not comply with any particular aspect of the MOU. Second, that provisions be made (presumably in the MOU) for environmental assessments (i.e., water quality testing and biota population surveys) prior to any application of pesticides. Finally, that the Board take "an aggressive approach" with regard to the FDACS rule work.

I believe that concerning the second and third requests, we are in agreement and already are implementing or plan to include both in our actions. I am not so sure of the first request. I think Elaine is concluding that the MOU has a contractual obligation aspect to it that we probably will not be entertaining. I think the MOU is to be focused more on a cooperative, coordinating point of view, with courses of action and responsibilities mutually agreed upon by the various parties. I doubt we would succeed in incorporating punitive types of "consequences" within the MOU structure.

REC'D

SEP 10 1997

ENV. PROT. COMM.
OF H.C.

FAX

Date: 9/9/97

To: Sara Fotopulos, EPC

FAX 272-5157

From: Thalia Potter, CRAM

FAX 238-4039*51

Ph. 238-4039

Pages (including cover sheet): 5

Enclosed is the first draft of the "Freedom from Chemical Trespass Act" as provided by Representative Victor Crist.

Because Section 1(3) speaks only to the control of the Mediterranean Fruit Fly, I believe we will recommend that (7) be deleted.

Your comments will be appreciated.

537-185-98

1 A bill to be entitled
2 An act relating to environmental control;
3 creating the "Freedom of Chemical Trespass
4 Act"; providing legislative intent; directing
5 the Department of Agriculture to use preventive
6 measure to control the Mediterranean fruit fly;
7 prohibiting certain aerial and ground spraying
8 of pesticides; providing for enforcement;
9 providing for waiver of sovereign immunity;
10 providing for exemptions for local government;
11 providing an effective date.

12
13 WHEREAS, the aerial spraying of pesticides interferes
14 with the rights of citizens to the full enjoyment of their
15 personal property and the public lands shared in common with
16 all Florida's citizens, and

17 WHEREAS, the aerial spraying of Malathion can cause in
18 the human body a synergistic reaction with other substances,
19 such as prescription medications, and

20 WHEREAS, 35 percent of the citizens of Florida are
21 either children, elderly, or chemically sensitive, or have
22 impaired immune systems due to leukemia or other forms of
23 cancer, asthma, lupus, fibromyalgia, or AIDS, and

24 WHEREAS, a 50-pound child would only have to be exposed
25 to .45 square feet of Malathion deposited at the rate of 1 mg.
26 per square foot to exceed the Environmental Protection
27 Agency's accepted level of exposure, and

28 WHEREAS, aerial spraying of pesticides is harmful to
29 aquatic species, such as shrimp, crabs, and fish, and
30 microorganisms essential to the food chain supporting life on
31 the planet, and

537-185-98

1 WHEREAS, aerial spraying of pesticides is harmful to a
 2 wide spectrum of the insect population, including:
 3 pollinators, such a bees and butterflies; beneficial insects,
 4 such as ladybugs and lacewings; soil aerators, such as
 5 earthworms; and all insects which are food sources to birds
 6 and other species, and

7 WHEREAS, the homeless are vulnerable to aerial spraying
 8 even during nighttime hours, NOW, THEREFORE,

9
 10 Be It Enacted by the Legislature of the State of Florida:

11
 12 Section 1. Freedom from Chemical Trespass Act.--

13 (1) SHORT TITLE.--This section may be cited as the
 14 "Freedom from Chemical Trespass Act."

15 (2) LEGISLATIVE INTENT.--The Legislature recognizes
 16 the right of the citizens of Florida to live in an environment
 17 free from chemical trespass. It is the intent of the
 18 Legislature to protect all species of life in Florida,
 19 including the citizens of the state, from private or
 20 governmental intrusion by aerial spraying of pesticides.

21 (3) CONTROL OF MEDITERRANEAN FRUIT FLY.--In order to
 22 control the Mediterranean fruit fly, the Department of
 23 Agriculture and Consumer Services shall utilize preventive
 24 measures, including:

25 (a) Aggressive trapping.

26 (b) Biological controls, such as sterile insect
 27 technology (SIT) and natural predators.

28 (c) An education program to inform grove owners and
 29 the public about fruit stripping in order to minimize the
 30 availability of host materials of susceptible fruit, berries,
 31 or vegetables.

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

1 (4) PROHIBITIONS ON SPRAYING OF PESTICIDES.--

2 (a) Application of pesticides by aircraft as defined
3 in s. 487.021(7), Florida Statutes, is prohibited.

4 (b) Ground spraying of pesticides without the express
5 permission of the property owner is prohibited.

6 (5) ENFORCEMENT.--Any affected person, including any
7 governmental unit or agency, shall have standing to bring an
8 action in a court of competent jurisdiction to enforce the
9 provisions of this section by injunctive relief or such other
10 relief as the court may deem appropriate. The court shall have
11 authority to grant injunctive relief without prior notice to
12 the party enjoined. If the court grants injunctive relief, no
13 bond shall be required to be posted.

14 (6) WAIVER OF SOVEREIGN IMMUNITY.--For purposes of
15 liability for negligence in the implementation of the
16 provisions of this section, the Department of Agriculture and
17 Consumer Services shall be liable to the extent specified in
18 s. 768.28, Florida Statutes.

19 (7) LOCAL GOVERNMENT EXEMPTION.--A local government
20 may be exempted from the prohibitions in paragraph (4)(a) or
21 paragraph (4)(b) if such exemption is found to be in the
22 public interest.

23 Section 2. This act shall take effect on October 1 of
24 the year in which enacted.

537-185-98

HOUSE SUMMARY

Creates the "Freedom from Chemical Trespass Act."
 Provides legislative intent. Directs the Department of
 Agriculture and Consumer Services to use preventive
 measures to control the Mediterranean Fruit fly.
 Prohibits aerial spraying of pesticides and prohibits
 ground spraying of pesticides without the property
 owner's express permission. Exempts local governments
 from these prohibitions under certain circumstances.
 Authorizes actions for injunctive or other relief by any
 affected person, including any governmental unit or
 agency. Provides for grant of injunctive relief without
 prior notice or posting of bond. Provides certain
 liability of the department under the act.

31

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



P.O. BOX 262643
TAMPA, FL. 33685-2643
(813) 237-CRAM

CRAM

No aerial spraying - ever again!

*through citizen action, education and
government accountability*

Via Fax (813) 272-5605
Tony D'Aquila
Environmental Protection Commission

September 8, 1997

RECEIVED

SEP 10 1997

Re: Aerial Spray of Malathion

EPC of HC
AIR MANAGEMENT

Dear Tony:

Thank you for this opportunity to present in writing the three requests that were made to the Environmental Protection Commission on August 21, 1997.

First, the Memorandum of Understanding ("MOU") must contain consequences for the violation of any terms of the MOU by any party that voluntarily becomes subject to the MOU. The MOU, as I understand it, will be essentially a contract containing guidelines for the agencies that will coordinate efforts to address any future treatment of medflies. Contracts usually contain provisions for consequences that are brought to bear upon any party that defaults in its contractual obligations. The citizens of Hillsborough County have been most frustrated by the violations of the federal spray restrictions that were so blatantly committed by the medfly program.

Second, prior to any pesticide spray campaign by our government to control the medfly, regardless of whether aerial or ground applications, there must be a period of time in which our government authorities gather baseline information so that the effects upon our environment can be accurately assessed during and following the spray. Ground water and sediment tests for water quality should be tested, populations of beneficial insects should be documented, and any other pre-spray baselines deemed important by our scientific community should be gathered.

Third, we ask that you take an aggressive approach to protecting our environment with regard to the proposed permanent rule being developed by the Division of Plant Industry. In its present form, the developing rule allows the Department to go upon any property, public or private, where a medfly is "suspected" to exist, and to spray pesticides. In addition, the present form of the rule sets forth no guidelines for "treatment" of an area.

Yours very truly,

T. Elaine Holmes
Chair

**DEP CONTRACT NO. GC513
FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION
AGREEMENT FOR STORAGE TANK SYSTEM
COMPLIANCE VERIFICATION PROGRAM
FOR HILLSBOROUGH COUNTY**

REC'D

CONTRACTOR

HILLSBOROUGH COUNTY
ENVIRONMENTAL PROTECTION COMMISSION
1900 9th Avenue
Tampa, Florida 33605

RECEIVED

SEP - 9 1997

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

SEP 09 1997

FEID NO.: 59-6000661

EPC/Waste Management Division

SCOPE OF SERVICES

The Florida Department of Environmental Protection (DEP or Department) hereby retains the CONTRACTOR for the following specific purposes and duties:

1. Perform compliance inspections at Chapters 62-761 and 62-762, Florida Administrative Code (F.A.C.), regulated storage facilities (excluding mineral acid tanks regulated by the DEP in accordance with Sections 376.320 - 376.326, Florida Statutes) within the jurisdictional boundaries of Hillsborough County as required by an executed Task Assignment(s). In addition, perform closure, installation, discharge inspections, and reinspections, as applicable, in accordance with each Task Assignment. Inspections shall be performed by an individual(s) in a position equivalent to an Environmental Specialist I level or higher. Beginning on the effective date of this Contract, the CONTRACTOR is authorized to enter private property in order to carry out inspections pursuant to Sections 403.091 and 403.858, Florida Statutes.

Site inspection responsibilities shall include:

- A. Contacting facility owners or operators, in writing or verbally, to schedule compliance, installation and tank closure inspections. The DEP Task Manager may require written notification of inspections if verbal methods have proved unsatisfactory.
- B. Meeting with the owners or operators of all regulated facilities in Hillsborough County and determining compliance with Chapters 62-761 and 62-762, F.A.C., and Chapter 376, Florida Statutes, with the exception of CONTRACTOR-owned/operated facilities. Inspections should be performed in accordance with each executed Task Assignment in the following priority order:
 1. Perform all inspections at facilities with known or suspected discharges involving free product within twenty-four (24) hours of receipt of notification. Authorize under Section 376.30711, F.S. (1996 Supp.), limited scope free product recovery from a new discharge according to Department guidelines.
 2. Perform all inspections at facilities with known or suspected discharges within ten (10) working days of receipt of notification. Complete the Florida Petroleum Liability and Restoration Insurance Program checklist for eligibility and ranking information. Send Cleanup Notification Letters to facility owners or operators, if appropriate.

3. Perform all Closure Inspections at all known storage tank system closure activities.
 4. Perform all installation inspections of new installations in Hillsborough County to ensure that the system is properly constructed in accordance with Chapters 62-761 and 62-762, F.A.C., as applicable.
 5. Perform compliance inspections and reinspections at registered regulated facilities as indicated by each executed Task Assignment. The following completion rate based on storage system construction and previous compliance record is required:
 - a. All facilities having a moderate or major potential for harm to the environment and moderate or major extent of deviation from the regulations, as referenced in the Storage Tank Penalty Guidelines and Assessments Memo (12/1/95) the previous year. (100%)
 - b. All facilities with at least one single-walled regulated system. (100%)
 6. The following inspections at registered regulated facilities will be performed by the CONTRACTOR based on resources and priorities:

All facilities having only double-walled regulated systems. Perform reinspections of facilities only as needed to verify compliance of items previously identified as having a moderate or major potential for harm to the environment and moderate or major extent of deviation from the regulations, as referenced in the Storage Tank Penalty Guidelines and Assessments Memo (12/1/95). All violations, regardless of severity, which solely involve notification or reporting will not require a reinspection. Facilities not inspected during the current executed Task Assignment, will be prioritized to be inspected during the subsequent Task Assignment.
 - C. Distribute registration forms to all unregistered facilities that become known to the CONTRACTOR as they are discovered, perform compliance inspections at all unregistered facilities found that are subject to Chapters 62-761 and 62-762, F.A.C., and take appropriate measures where required to obtain compliance.
 - D. Complete inspection forms in accordance with the minimum standards referenced in Attachment C, Exhibit 1.
 - E. Respond to complaints by performing a complaint investigation, documenting actions taken utilizing a DEP Task Manager approved complaint response form, and maintain copies of all complaint information in the appropriate facility file.
 - F. Respond to requests for public assistance both in the office and during inspections.
2. Perform Level **Three Enforcement** actions. These actions include: obtaining inspection warrants, as needed; initiation and completion of administrative and judicial enforcement actions as lead agency, as described in Attachment A; preparing, delivering, and executing enforcement documents including Consent Orders, Notices of Violation, and Final Orders; taking lead responsibility in the discovery process; determining appropriate judicial remedies, including civil penalties, injunctive relief, and assessment of damages; and performing post-judgment enforcement activities.

The CONTRACTOR must perform Level Three Enforcement under its own ordinances. Therefore, to perform Level Three Enforcement activities, the CONTRACTOR must act to insure that the local government passes ordinances adopting Chapters 62-761 and 62-762, F.A.C., as their own county ordinances.

Level Three Enforcement activities must be conducted by an individual(s) in a position equivalent to an Environmental Specialist II level or higher. Noncompliance letters may be prepared and sent by an individual(s) at the Environmental Specialist I level under the direction of an individual at the Environmental Specialist II level or higher. All enforcement documents must be in DEP format, or have DEP approval.

If penalties are received from CONTRACTOR enforcement activities pursuant to Level Three Enforcement under ordinances adopting State rules, the CONTRACTOR must reimburse the Department of Environmental Protection for the costs of any inspections needed beyond the initial reinspection.

3. The CONTRACTOR shall assess performance levels monthly to determine its progress towards completion of each Task Assignment and upon discovery shall notify the DEP Task Manager of any problems that would delay or prevent the timely progress and completion of each Task Assignment. Four months from the effective date of each Task Assignment, the CONTRACTOR should have completed 33 percent of the required compliance inspections as indicated by the Task Assignment. If the actual number of required compliance inspections falls below 20 percent for the fourth month, 30 percent for the fifth month, 40 percent for the sixth month, 48 percent for the seventh month, 57 percent for the eighth month, 65 percent for the ninth month, 73 percent for the tenth month or 82 percent for the eleventh month, then the CONTRACTOR shall submit a Corrective Action Plan, within ten (10) days of receipt of a written request from the DEP Task Manager, to the Task Manager describing the steps it will take to meet the terms of the Task Assignment. If there is any indication that other required inspections are not being performed, the DEP Task Manager may request the submission of a Corrective Action Plan. The Task Manager shall be responsible for reviewing the plan and notifying the CONTRACTOR if the plan is approved or in need of revision. If the CONTRACTOR does not successfully implement the Plan as approved by the DEP Task Manager for the remaining months of the Task Assignment, the Department may withhold further payment of monthly invoices until such time as the CONTRACTOR comes into compliance with those performance levels as outlined above. A completion rate of 100 percent is required for routine inspections as described in Paragraph 1.B.5 above. In all cases, the final invoice will be paid based on the actual completion rate. In the event the CONTRACTOR is unable to meet performance levels, the Department reserves the right to seek cost recovery according to the inspection costs identified in each executed Task Assignment Notification Form (Attachment B, attached hereto and made a part hereof). The Department reserves the right to seek cost recovery in the event the CONTRACTOR is unable to meet performance levels.

For purposes of this Contract, it is understood and agreed by the parties hereto that the first task assignment issued may be for a period of less than twelve (12) months. In instances where an executed task assignment is for a period less than twelve (12) months, the following method will be used by the CONTRACTOR to assess performance monthly: The CONTRACTOR shall perform inspections as directed in the previously stated Priority Order. The rate of routine inspections, as described in Paragraph 1.B.5 above, shall be at the percentage rate per month as identified in the Task Assignment. The CONTRACTOR shall assess performance levels monthly to determine its progress towards completion of the Task Assignment. If there is any indication that other required inspections are not being performed, the DEP Task Manager may request the submission of a Corrective Action Plan. The Task Manager shall be responsible for reviewing the plan and notifying the CONTRACTOR if the plan is approved or in need of revision.

To assist the CONTRACTOR in complying with the terms and conditions established herein, standard program terminology used throughout this Contract is defined and provided in Attachment A, attached hereto and made a part hereof. Because this Contract does not include services associated with mineral acid tanks, it is understood and agreed by both parties that all references to Chapters 62-761 and 62-762, F.A.C. in this Contract and/or Attachments incorporated herein shall refer to the provisions related to the storage tank program and shall not include the provisions pertaining to mineral acid tanks.

It is hereby understood and agreed that all references in this Contract to Florida Statutes and Florida Administrative Code shall be for the laws and rules in effect at the time work is performed by the CONTRACTOR.

The Department shall authorize the CONTRACTOR to provide services under this Contract utilizing the Task Assignment Form attached hereto and made a part hereof as Attachment B. The CONTRACTOR acknowledges that no work shall be performed until a Task Assignment authorizing work has been fully executed by the Department and the CONTRACTOR. If, during the term of an executed Task Assignment, a modification of the Task Assignment is needed, the Department may issue a new Task Assignment Form clearly marked with the original task number and the appropriate amendment number, detailing the revised description of the work to be performed. As with the original task assignment, all amendments must be executed by both the Department and the CONTRACTOR prior to the work being performed.

CONTRACTOR RESPONSIBILITIES

The CONTRACTOR shall:

1. Administer the compliance verification program, provide technical assistance, and perform enforcement actions. Enter into STCM and PCTS related data generated from the inspections under the direction of the DEP prior to the submittal of an invoice, PORS, and yellow copies of the compliance verification forms to the District.
2. Comply with all provisions of this Contract and verify facility compliance with Chapter 376, F.S., Chapters 62-761 and 62-762, F.A.C., be knowledgeable of the differences between the state and federal environmental statutes and rules applicable to underground storage tanks.
3. Require that field inspections be performed by qualified individuals and that they receive training on Chapters 62-761 and 62-762, F.A.C., Chapter 376, F.S., RCRA Subtitle I standards and DEP enforcement procedures.
4. Provide a sufficient number of qualified staff to satisfactorily complete all the responsibilities included in this Contract for Hillsborough County. All individuals hired after the effective date of this Contract shall possess qualifications equivalent to DEP position levels as specified in the Contract. All field inspectors and enforcement personnel shall attend and complete scheduled storage tank inspector certification training courses and pass any examinations with a score of 70% or higher. Effective the second year of this Contract, inspector certification will be required in order to conduct inspections. If the employee fails to attain a 70% or higher score, the employee may take the examination at the next offered training class. During this period the employee may continue to perform inspections. However, subsequent failure to provide certified inspectors will result in a reduction of the fixed price negotiated in the Task Assignment.
5. Determine the accurate latitude and longitude coordinates for each facility inspected and enter these into the DEP inspection database monthly.

6. Review Closure Assessment Reports filed by facility owners or operators to insure that the Department's current Closure Guidelines have been followed.
7. Maintain files on regulated facilities for inspection reports, noncompliance letters, warning letters, or any other related enforcement documentation, telephone logs and written correspondence from the facility. In the event of a case referral to the DEP District Office for further enforcement, a case summary, a copy of the complete case file, and a letter of referral shall be submitted to the DEP District Office. Facility files must be kept until the site has been determined closed. Once the facility has been closed for five (5) years, the records shall be sent to the Storage Tank Regulation Section in Tallahassee for preservation, unless the CONTRACTOR is subject to more stringent local record requirements. Copies can be maintained by the CONTRACTOR at the CONTRACTOR's expense. If, for any reason, the Department's contractual arrangement with the CONTRACTOR to perform the inspection program (through this Contract or any future contracts) ceases, the CONTRACTOR shall return all original facility files to the DEP Contract Manager within 30 calendar days of Contract expiration or termination.
8. Provide attendance of at least one staff member at scheduled meetings and at scheduled teleconferences at the District Office. The DEP Task Manager may authorize attendance at a location other than the District Office provided the availability of resources.
9. Maintain a current set of standards referenced by Chapters 62-761 and 62-762, F.A.C.
10. Ensure that all field personnel receive the health and safety training required to meet OSHA standards. DEP provides an 8 hour refresher course that is available to the CONTRACTOR.
11. Supervise the Local Compliance Program with an individual at a minimum equivalent to the Department's Environmental Specialist III personnel category.
12. Perform all clerical and data entry activities for the above mentioned tasks, by an individual at a minimum equivalent to a Secretary Specialist level or higher.
13. Provide copies of applicable rules, inspection forms, and other program/public assistance information to the public and regulated interests. However, this provision does not authorize photocopying of reference documents in violation of copyright law.
14. Use recycled paper for all program correspondence and documents with the exception of inspection report forms.
15. Maintain a separate account (Trust Fund or Cost Center) within the CONTRACTOR's accounting system for the receipt and disbursement of funds provided under this Contract.
16. Provide a Statement of Revenue, Expenses and Fund Balance for the period of the executed Task Assignment within 45 days of payment of the final invoice.
17. Provide complete copies of discharge inspection packages to DEP-Tallahassee within thirty (30) days receipt of the reported discharge. Send under separate cover the yellow copies of the compliance verification forms identified in Paragraph 1 above.
18. The DEP may provide equipment for the CONTRACTOR under this Contract. Equitable and beneficial title to the property may transfer to the CONTRACTOR, upon delivery of possession and custody by the DEP, and acceptance of delivery by the CONTRACTOR. However, if the CONTRACTOR fails to perform its obligations under this Contract, title of the equipment shall revert to the DEP, and the CONTRACTOR shall deliver possession and custody of all such equipment to the nearest District Office location, unless agreed otherwise, within thirty (30)

calendar days of Contract termination. If the CONTRACTOR satisfactorily performs its obligations under this Contract, legal title of the equipment will vest, and the CONTRACTOR will hold entire title to the property. The CONTRACTOR is responsible for the upkeep and maintenance of all equipment purchased by the DEP for the CONTRACTOR, such equipment shall be used solely for performing the requirements of this Contract. The CONTRACTOR has an affirmative duty to maintain the equipment in good operating condition, and to replace the equipment with equivalent equipment if it is stolen or lost, until the date that entire title vests. Documentation identifying the equipment, serial number(s) and cost per item, in addition to evidence of the parties transferring and receiving the equipment will be required at the time of the transfer of possession and custody. In addition, the CONTRACTOR, as custodian, shall maintain an adequate record of property in his or her custody, shall take an annual inventory of all such equipment, and shall report to the DEP, any changes to the inventory record. Such report should be filed on or before June 30 each year. The CONTRACTOR shall submit a written request to the Department prior to disposing of any property provided under this Contract. The Department will review such request and provide written authorization to the CONTRACTOR, either granting the request or requiring an alternative form of disposition. The CONTRACTOR must receive the written authorization prior to disposing of the property.

19. Access to DEP databases will be made by using an Internet connection. Therefore, the CONTRACTOR is responsible for subscribing to and paying for all charges related to use of the services of a reputable Internet service provider.
20. Acknowledge receipt of the following guidance documents:
 - a. Storage Tank Penalty Guidelines and Assessments Memo (12/1/95).
 - b. Storage Tank Program Guidance Memo on Post Inspection Procedures (2/26/96).
 - c. Pollutant Storage Tank Closure Assessment Requirements (10/96).
 - d. Limited Free Product Memo (10/30/95)

DEP RESPONSIBILITIES

The DEP shall:

1. Administer the "Storage Tank Training Course" to provide inspector certification for all CONTRACTOR inspectors and enforcement personnel.
2. Serve in an advisory capacity to the CONTRACTOR.
3. Review submitted compliance inspection verification forms.
4. Provide program and regulatory guidance for the CONTRACTOR. Provide training in new technology and program management changes at the Annual Program and Supervisors' Meetings.
5. Conduct enforcement activities for violations of Chapters 62-761 and 62-762, F.A.C., when case referrals are forwarded to the District Office.
6. Provide standard inspection forms to the CONTRACTOR.
7. Provide information to the CONTRACTOR about DEP approvals of storage tank system equipment, alternate procedures, licensed Pollutant Storage Systems Contractors (PSSC), and Registered Precision Tank Testers.
8. At least once annually, perform a Program Review using Attachment C, attached hereto and made a part hereof. The CONTRACTOR shall be notified, in writing, at least fourteen (14) calendar

days prior to performance of such review. The Task Manager may perform additional program reviews, as deemed necessary, to insure the required performance of the CONTRACTOR.

REPORTS AND DELIVERABLES

In an effort to conserve and recycle natural resources, the CONTRACTOR shall submit all reports and correspondence generated under this Contract on recycled paper.

The CONTRACTOR shall complete the appropriate sections(s) as applicable for each facility inspected, in accordance with Attachments D and E, attached hereto and made a part hereof. The CONTRACTOR shall send copies to the DEP Task Manager's attention at the Florida Department of Environmental Protection, Southwest District Office, Storage Tank Regulation Section, 3804 Coconut Palm Drive, Tampa, Florida 33619, on a monthly basis, and enter this information, along with enforcement tracking information, into the DEP computer database. The yellow copy of all compliance verification forms completed each month shall be submitted along with the invoice and PORS to the DEP-District no later than the 15th day of the following month. If the 15th falls on a weekend or State observed holiday, the CONTRACTOR shall submit the required information no later than the next business day following the weekend or holiday.

The Program Output Reporting System (PORS) Report (Attachment F (Page 4), attached hereto and made a part hereof) shall be completed each month and submitted with the invoice to the DEP District Office only. The DEP Task Manager shall verify the number of inspections on the PORS Report to the number of compliance verification forms received and to the STCM database before the monthly invoice is forwarded to the *Bureau of Petroleum Storage Systems* in Tallahassee, Florida for processing. The DEP has ten (10) working days from the receipt of all deliverables and reports to review the work performed by the CONTRACTOR during the invoice period. If the CONTRACTOR fails to perform as directed by the terms of this Contract, the DEP shall return the unpaid invoice and/or reports and deliverables to the CONTRACTOR documenting the areas in which the CONTRACTOR has failed to meet its contractual obligations.

TERM OF CONTRACT

This Contract shall be effective on the date of execution or October 1, 1997, whichever is later; and shall remain in effect for ten (10) years following the effective date of the Contract. Any and all work under this Contract shall be evidenced by an executed task assignment. In no event shall the CONTRACTOR perform work without an executed Task Assignment. The Department anticipates Task Assignments will be executed no later than July 1 of each year detailing the requirements for the next twelve (12) month period. This Contract may be renewed for an additional term not to exceed the original Contract period unless the original Contract period is 24 months or less, in which case the Contract may be renewed up to two additional one-year periods. Renewal of this Contract shall be in writing and subject to the same terms and conditions of this Contract. All renewals are contingent upon satisfactory performance by the CONTRACTOR and the availability of funds.

NOTICES

Any and all notices shall be delivered to the parties at the following addresses:

Contractor
Mr. Hooshang Boostani
Hillsborough County
Environmental Protection Commission
1900 9th Avenue
Tampa, Florida 33605

Department
Mr. Marshall Mott-Smith
Department of Environmental Protection
Bureau of Petroleum Storage Systems
2600 Blair Stone Road, MS4525
Tallahassee, Florida 32399-2400

SUBCONTRACTING

The CONTRACTOR shall not subcontract, assign, or transfer any work under this Contract without the prior written consent of the DEP.

COMPENSATION

For satisfactory performance, DEP agrees to compensate the CONTRACTOR on a fixed price basis as described by **each executed Task Assignment**. It is hereby understood and agreed by both parties that the compensation **provided under this Contract** shall not exceed the amount negotiated in each executed Task Assignment **for each specified period**. The DEP's calculation of the fixed price identified above is based on Attachment B, entitled "Task Assignment ", attached hereto and made a part hereof.

The State of Florida's performance and obligation to pay under this Contract is contingent upon an annual appropriation by the Legislature and continuation of other funding presently anticipated.

PAYMENTS

The CONTRACTOR shall submit monthly invoices in the amount specified in the executed Task Assignment. Each invoice **shall be submitted** using the Contractual Services Invoice form provided as Attachment F, attached **hereto and made a part hereof**. Each invoice is due no later than the 15th day of the month following the month of services. Travel expenses associated with the annual meeting, Storage Tank Program Guidance Committee Meetings, Tanks Program Supervisor's Meetings, and travel required for inspections, enforcement reinspections, district coordination, training and monthly teleconferences are included in the monthly payment schedule and no additional travel expenses will be authorized. Each invoice **must be submitted in detail sufficient** for preaudit and postaudit review. A final invoice must be **submitted within thirty (30) days of the completion date of the end of the executed Task Assignment to assure the availability of funding for payment**. The DEP shall pay all satisfactory invoices in accordance with Section 215.422, Florida Statutes. Six copies of each invoice and PORS Report form, shall be submitted to:

Department of Environmental Protection
Southwest District Office
Attn.: *Send to the DEP Task Manager's Attention*
3804 Coconut Palm Drive
Tampa, Florida 33619

Pursuant to Section 215.422, Florida Statutes, the Department's Task Manager shall have five (5) **working days, unless otherwise specified** herein, to inspect and approve the services for payment; the Department **must submit a request for payment** to the Florida Department of Banking and Finance within twenty (20) days; and the Department of Banking and Finance is given ten (10) days to issue a warrant. Days are calculated from the latter date the invoice is received or services received, inspected, and approved. Invoice payment requirements do not start until a proper and correct invoice has been received. Invoices which have to be returned to a contractor for correction(s) will result in a delay in the payment.

In accordance with Section 215.422, Florida Statutes, the Department shall pay the CONTRACTOR, interest at a rate as established by Section 55.03(1), Florida Statutes on the unpaid balance, if a warrant in payment of an invoice is not issued within forty (40) days after receipt of a correct invoice and receipt, inspection, and approval of the goods and services. Interest payments of less than \$1 will not be enforced unless a contractor requests payment. The interest rate established pursuant to Section 55.03(1), by Comptroller's Memorandum No. 3 (1996-97) dated December 3, 1996, has been set at 10.0% per annum or .02740% per day. The revised interest rate for each calendar year beyond 1997 for which the term of this Contract is in effect can be obtained by calling the Department of Banking and Finance,

Vendor Ombudsman at the telephone number provided below or the Department's Contracts Section at 850/922-5942.

A Vendor Ombudsman has been established within the Department of Banking and Finance. The duties of this individual include acting as an advocate for vendors who may be experiencing problems in obtaining timely payment(s) from a state agency. The Vendor Ombudsman may be contacted at (850) 488-2924 or by calling the State Comptroller's Hotline 1-800-848-3792.

MANAGEMENT

The DEP Contract Manager is Marshall T. Mott-Smith, Phone 850/488-3935 or SunCom 278-3935. The CONTRACTOR's Contract Manager is Hooshang Boostani, Phone 813/272-5788 or SunCom 543-5788. Each Task Assignment will identify the DEP Task Manager and the CONTRACTOR's Task Manager. All matters relating to a specific task assignment shall be directed to the task managers for appropriate action or disposition. All matters relating to the Contract shall be directed to the Contract Managers.

The DEP and CONTRACTOR agree to the following terms:

1. Either party may terminate this Contract for its convenience by giving the other party thirty (30) days written notice. If termination is effected by the DEP, the CONTRACTOR shall be compensated for work satisfactorily completed and irrevocable commitments made. If termination is effected by the CONTRACTOR, the CONTRACTOR shall be compensated for work satisfactorily completed.
2. All services shall be performed by the CONTRACTOR to the satisfaction of the Secretary of the DEP or his/her designated representative.
3. If the CONTRACTOR fails to perform in a timely and proper manner, in the judgment of the DEP, the DEP may terminate this Contract by thirty (30) days written notice, specifying the effective time/date of termination. In this event, the CONTRACTOR shall be compensated for any work satisfactorily completed.
4. The DEP and the CONTRACTOR may at any time, by written order designated to be a change order, make any change in the work within the general scope of the Contract (e.g., specifications, time, method or manner of performance, requirements, etc.). All change orders are subject to mutual agreement of both parties and shall be evidenced in writing. Any change order which causes an increase or decrease in the CONTRACTOR's cost or time shall require an appropriate adjustment and modification (amendment) to this Contract.
5. The CONTRACTOR shall maintain books, records and documents directly pertinent to performance under this Contract in accordance with generally accepted accounting principles consistently applied. The DEP, the State, or their authorized representatives shall have access to such records for audit purposes during the term of the Contract and for three years following Contract completion.
6. The CONTRACTOR covenants that it presently has no interest and shall not acquire any interest which would conflict in any manner or degree with the performance of services required.
7. The CONTRACTOR warrants that no person or agency has been employed or retained to solicit or secure this Contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee except bona fide employees or agencies maintained by the CONTRACTOR for the purpose of securing business.

8. The DEP reserves the right to unilaterally cancel this Contract for refusal by the CONTRACTOR to allow reasonable public access to all documents, papers, letters, or other material subject to the provisions of Chapter 119, F.S., and made or received by the CONTRACTOR in conjunction with this Contract.
9. It is hereby understood and agreed that in the event the DEP makes a clear determination that the CONTRACTOR has breached this Contract to the extent that the CONTRACTOR is (at the sole discretion of the DEP) inadequate to administer the Storage Tank System Compliance Verification Program, compliance inspections and preliminary enforcement activities under Chapters 62-761 and 62-762, F.A.C., and Chapter 376, F.S., for regulated storage tank systems in its jurisdiction, or that such program is being carried out in a manner inconsistent with the requirements of this Contract, the DEP may, as an alternative to termination of this Contract and at the DEP's sole discretion, require corrective measures to be taken by the CONTRACTOR within a reasonable period of time, not to exceed 45 days. In the event the CONTRACTOR fails to take such necessary corrective action within the time required, the DEP may terminate this Contract in accordance with paragraph 3 of this section.
10. A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, F.S., for Category Two for a period of 36 months from the date of being placed on the convicted vendor list.
11. The CONTRACTOR shall comply with all federal, state and local rules and regulations in providing services to the Department under this Contract. The CONTRACTOR acknowledges that this requirement includes compliance with all federal, state and local health and safety rules and regulations.
12. No delay or failure to exercise any right, power or remedy accruing to either party upon breach or default by either party under this Contract, shall impair any such right, power or remedy of either party; nor shall such delay or failure be construed as a waiver of any such breach or default, or any similar breach or default thereafter.
13. This Contract is an exclusive contract for services and may not be assigned in whole or in part without the written approval of the Department.

LIABILITY

1. To the extent required by law, the CONTRACTOR will be self-insured against, or will secure and maintain during the life of this Contract, Workers' Compensation Insurance for all of his employees connected with the work of this project and, in case any work is subcontracted, the CONTRACTOR shall require the subcontractor similarly to provide Workers' Compensation Insurance for all of the latter's employees unless such employees are covered by the protection afforded by the CONTRACTOR. Such self-insurance program or insurance coverage shall comply fully with the Florida Workers' Compensation law. In case any class of employees engaged in hazardous work under this Contract is not protected under Workers' Compensation statutes, the CONTRACTOR shall provide, and cause each subcontractor to provide, adequate insurance satisfactory to the Department, for the protection of his employees not otherwise protected.
2. The CONTRACTOR, as an independent contractor and not an agent, representative, or employee of the Department, agrees to carry adequate liability and other appropriate forms of insurance. The Department shall have no liability except as specifically provided in this Contract.

3. Each party hereto agrees that it shall be solely responsible for the negligent or wrongful acts of its employees and agents. However, nothing contained herein shall constitute a waiver by either party of its sovereign immunity or the provisions of Section 768.28, Florida Statutes.

SEVERABILITY

In the event one or more provisions of this Contract are declared invalid, the balance of this Contract shall remain in full force and effect.

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ENTIRE AGREEMENT

It is hereby understood and agreed that this Contract states the entire agreement and that the parties are not bound by any stipulations, representations, agreements, or promises, oral or otherwise, not printed in this Contract. This Contract may be modified by written amendment executed by the parties hereto.

HILLSBOROUGH COUNTY
ENVIRONMENTAL PROTECTION
COMMISSION

FLORIDA DEPARTMENT OF
ENVIRONMENTAL PROTECTION

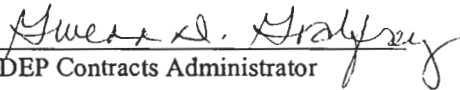
By: _____
*Title:



Chief, Bureau of Petroleum
Storage Systems

Date: _____

Date: September 8, 1997



DEP Contracts Administrator

Approved as to form/legality:



DEP Assistant General Counsel

*For contracts with governmental boards/commissions: If someone other than the Chairman signs this Contract, a resolution, statement or other document authorizing the person to sign the Contract on behalf of the CONTRACTOR must accompany the Contract.

List of Attachments included as part of this Contract:

Attachment	Description (include number of pages)
Attachment A	Standard Contract Definitions (8 pages)
Attachment B	Task Assignment Notification Form (1 Page)
Attachment C	Pollutant Storage System Compliance Inspection Verification Program Review (7 pages)
Attachment D	Pollutant Storage Tank System Inspection Report Form (9 pages)
Attachment E	Florida Petroleum Liability and Restoration Insurance Program Checklist (2 pages)
Attachment F	Contractual Services Invoice Form (4 pages)