





**AGENDA ITEM COVER SHEET**

**Date:** June 25, 1998

**Agenda Item:** Public Hearing

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**Description/Summary:**

The Commission requested CEAC to review its rules to streamline, clarify and update them. In conjunction with CEAC, staff reviewed Chapter 1-3, Air Pollution Rule, and proposes the following amendments.

The amendments would update Chapter 1-3 to be compatible with other local and state rules, and to enhance the public notification procedures prior to the EPC issuing an air pollution construction permit. The enhanced notification would include notifying registered neighborhood organizations in close proximity to a project, and posting a sign on the site of the proposed activity.

Announcement of the public hearing to amend the rule was published at least 10 days prior to the scheduled hearing date, as required by Chapter 84-446, Laws of Florida.

**Commission Action Recommended:**

Consider and approve amendments to Chapter 1-3.

**Commission Action taken:**

COMMISSION

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

EXECUTIVE DIRECTOR

ROGER P. STEWART



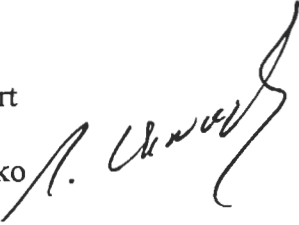
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MEMORANDUM

DATE: June 3, 1998  
TO: Roger P. Stewart  
FROM: Iwan Choronenko   
SUBJECT: Chapter 1-3

Attached is the final draft of Chapter 1-3 for Board consideration. All of the concerns expressed by Legal and CEAC have been addressed. We also held a technical workshop with industry and incorporated a few of their suggestions as well. As such, we recommend that you go forward with the proposed revisions for the public hearing scheduled for June 25 at 10:00 AM.

The proposed revisions seek to update the rule and make a significant enhancement in the public notification requirements. Under the permitting program delegated from the State, the EPC staff requires owners of new sources to advertise the Agency's intention to issue them a permit. The advertisement runs in the legal section of a newspaper of general circulation. Unfortunately the term "newspaper of general circulation" is loosely written in State Statutes and some rather obscure publications can qualify. This has led to the concern that the public is not truly getting their opportunity to review Agency determinations on permits prior to the projects being built.

In order to improve on the public notification procedures in our rule, we are recommending two additional steps. First the applicants will be required to notify registered neighborhood organizations identified by the EPC as being in close proximity to the project. In addition, the applicants will be posting a sign at the site similar to the zoning change process. The sign will notify individuals passing by the location that an application to construct an air pollution source for this site is pending. These two actions should impose minimal burden on the applicant, yet vastly improve the public's chance to provide input.

We are prepared to make the appropriate presentation at the Board meeting as you so direct.

mjh



A RULE

AMENDING CHAPTER 1-3, RULES OF THE ENVIRONMENTAL PROTECTION COMMISSION OF HILLSBOROUGH COUNTY ON AIR POLLUTION, CORRECTING OUTDATED REFERENCES TO STATE AGENCIES AND REGULATIONS; DELETING UNNECESSARY DEFINITIONS AND ADDING DEFINITIONS; ADDING PROVISIONS FOR PUBLIC NOTIFICATION OF PROPOSED AGENCY ACTION; CLARIFYING PROVISIONS ADDRESSING THE STATUS OF AIR POLLUTION AND APPLICABLE STANDARDS; ELIMINATING THE PROVISIONS ON MAXIMUM ALLOWABLE INCREASES TO AMBIENT STANDARDS; CLARIFYING APPLICABLE STANDARDS FOR PARTICULATE EMISSIONS; PROVIDING MORE SPECIFIC STANDARDS FOR FOSSIL FUEL STEAM GENERATORS AND ADDING REQUIREMENTS FOR BULK GASOLINE TERMINALS; ELIMINATING UNNECESSARY PROVISIONS REGARDING MOBILE SOURCES; AND PROVIDING SEVERABILITY AND AN EFFECTIVE DATE

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

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

**WHEREAS**, the Commission published due notice of its intent to consider adoption of amendments to its Air Pollution Rule, Chapter 1-3, in Hillsborough County,

**NOW, THEREFORE**, the Environmental Protection Commission of Hillsborough County, in regular public meeting this \_\_\_\_\_, 1998 enacts the following:

**Section 1.** Chapter 1-3, Rules of the Environmental Protection Commission, is amended to read as follows:



1 **1-3.12 DEFINITIONS:**

2 1. Definitions contained in ~~Chapter 84-446, Laws of Florida, as amended~~ the Act, apply to this rule.

3 2. With the exception of the definitions for "Air Pollution", "~~Odor~~", and "Particulate Matter,"  
4 definitions contained in Section ~~62-210.200~~ 17-2-100, F.A.C., shall, to the extent applicable apply to this rule.

5 3. The following specific definitions shall apply to this rule:

6 a. ~~"Commission" shall mean the Hillsborough County Environmental Protection Commission.~~

7 b. "Director" shall mean the Director of the Commission or his authorized agent.

8 b. "Objectionable odor" shall mean any odor present in the outdoor atmosphere which by itself  
9 or in combination with other odors, is or may be harmful or injurious to human health or welfare, or  
10 which creates a nuisance as defined by the Act.

11 c. "Vapor-tight gasoline tank truck" shall mean a gasoline tank truck which has demonstrated  
12 within the 12 preceding months that its product delivery tank will sustain a pressure change of not more  
13 than 750 pascals (75mm of water) within 5 minutes after it is pressurized to 4500 pascals (450mm of  
14 water). This capability is to be demonstrated using the pressure test procedure specified in EPA  
15 Reference Method 27.

16  
17 **PART 2**

18 **1-3.20 CIRCUMVENTION PROHIBITED:**

19 No person shall circumvent any air pollution control device, or allow the emission of air pollutants  
20 without the applicable air pollution control device operating properly.  
21

22 **1-3.21 PERMITS REQUIRED:**

23 1. No air pollution source may be constructed, modified or operated in Hillsborough County without a  
24 valid permit as may be required by the Department pursuant to Sections ~~62-17-210, 212, 213 and 214~~, F.A.C.,  
25 Chapter ~~62-17~~, F.A.C., or as may be otherwise required by ~~these rules~~ this rule.

26 2. Application for or renewal of a Department permit, or copy where appropriate, shall be submitted  
27 to the Director for his review pursuant to Department requirements, and recommendation according to this rule.

28 Reasonable assurances shall be provided that all Department and Commission standards have or will be met  
29 by the applicant or the activity sought to be permitted. Activities under Citation at the time of application shall  
30 have the Citation resolved prior to the Director recommending approval of an application involving the same  
31 activity.

32 3. No air pollution source may be constructed, modified or operated in Hillsborough County in  
33 violation of any conditions specified on the permit, whether issued by the Commission or by the Department,  
34 or certification authorizing the activity or as may be incorporated by reference within the conditions of the  
35 permit authorizing the activity. Violation of any such permit or certification condition is a violation of this  
36 rule.  
37

1 **1-3.22 PROHIBITIONS:**

2 1. No person may build, erect, construct, or implant any new source or operate, modify or re-build an  
3 existing source, or by any other means release or take action which would result in the release of air pollutants  
4 into the atmosphere of the County which will result in or contribute to, including concentrations of existing air  
5 pollutants, ambient air concentrations greater than ambient air quality standards as defined in this rule.

6 2. No person shall cause, let, permit, suffer or allow the discharge into the atmosphere of any pollutant  
7 from any source or activity in excess of emission standards herein established.

8 3. No person shall cause, let, permit, suffer or allow the discharge into the atmosphere of any  
9 pollutant from any source or activity that causes or tends to cause or to contribute to an objectionable odor.  
10

11 **1-3.23 NECESSARY PRECAUTIONS:**

12 No person shall store, pump, handle, process, load, unload or use in any process or installation volatile  
13 organic compounds or organic solvents without applying known and existing vapor emission control devices or  
14 systems as may be necessary.  
15

16 **1-3.24 ~~(Reserved)~~ PUBLIC NOTIFICATION:**

17 1. Pursuant to Section 62-103.150, F.A.C., a Notice of Proposed Agency Action on an application for  
18 an air pollution permit may require public notice in a newspaper of general circulation by the applicant at the  
19 applicant's expense. In such instance, the notice must be published in a newspaper that meets the definition  
20 described in 50.011 F.S.

21 2. Applicants shall give written notice to each Neighborhood Organization registered with the EPC, that  
22 lies within one mile of any proposed activity under consideration for a construction permit. At the Director's  
23 discretion, applicants may be directed to provide the same written notice to Neighborhood Organizations  
24 further than one mile from the proposed activity and/or for activities to be covered by an operation permit. The  
25 EPC will provide the applicant with the affected Neighborhood Organization list, and within 10 days of receipt  
26 of this list, the applicant will provide the EPC written evidence that the Neighborhood Organizations were  
27 notified. The notice to the Neighborhood Organizations shall include a description of the air emission source,  
28 the nature of the air emissions, the proposed startup date and the name of a contact person at the EPC for  
29 further information.

30 3. Applicants shall post a sign at the location of any proposed activity under consideration for a  
31 construction permit. At the Director's discretion, applicants may be directed to post the same sign for activities  
32 to be covered by an operation permit. The EPC will provide the applicant with the sign. It must be posted  
33 conspicuously on the property, so as to be readily viewable from the busiest adjacent public roadway. The  
34 applicant must pick up and post the sign within 15 days of submitting an application, and leave it posted on-site  
35 for no less than 30 days.  
36

1 **1-3.25 EXCESS EMISSIONS:**

2 1. Excess emissions specifically allowed by Section ~~62-210~~ 17 2.250, F.A.C., shall not be violations of  
3 this rule unless they are determined to be nuisances. The Director may request written verification that any  
4 such emissions fall within the designated conditions.

5 2. Excess emissions which are caused entirely or in part by poor maintenance, poor operation, or any  
6 other equipment or process failure which may be reasonably prevented during start-up, shut down, or  
7 malfunction, are prohibited.

8  
9 **PART 3**

10 **1-3.30 AMBIENT AIR QUALITY STANDARDS:**

11 1. Standards established in Section ~~62-204~~ 17 2.300(3), F.A.C., are adopted and here incorporated by  
12 reference.

13 2. Sampling and analysis of contaminants in this section shall be performed in accordance with the  
14 State of Florida Department of Environmental Protection "State-Wide Quality Assurance Plan, January 1985".  
15

16 ~~1-31~~ **MAXIMUM ALLOWABLE INCREASES:**

17 ~~Maximum increases allowed by Section ~~62~~ 17 2.310, F.A.C., are adopted and here incorporated by~~  
18 ~~reference.~~

19  
20 **1-3.32 DESIGNATION OF AIR POLLUTION STATUS OF AREA AIR POLLUTION EPISODES:**

21 Designations of Hillsborough County pursuant to Section 62-204, F.A.C regarding the ambient standards  
22 of Section 1-3.30 above and Prevention of Significant Deterioration areas, are hereby adopted by reference.

23 ~~1. The Department Secretary has authority pursuant to Section ~~62~~ 17 2.320, F.A.C., to declare that an~~  
24 ~~air pollution episode exists. The Director shall notify the Secretary when such declaration is deemed~~  
25 ~~appropriate for Hillsborough County or portion thereof according to Department criteria for determining an~~  
26 ~~"alert", "warning", or "emergency".~~

27 ~~2. It shall be a violation of these rules for any person or facility to fail to comply with the curtailment~~  
28 ~~provisions required by Section 17 2.320(2), F.A.C.~~

29  
30 **PART 4 (Reserved)**

31  
32 **PART 5**

33 **1-3.50 NEW SOURCE REVIEW:**

34 ~~All~~ Provisions contained in Chapter ~~62-212~~ 17 2, F.A.C., pertinent to Hillsborough County, are adopted and  
35 hereby incorporated by reference.  
36

1 **PART 6**

2 **1-3.60 EMISSION LIMITING AND PERFORMANCE STANDARDS:**

3 ~~All~~ Provisions contained in Chapters 62-204 and 62-296 ~~17-2~~, F.A.C., pertinent to Hillsborough County, are  
4 adopted and hereby incorporated by reference, except for Sections 62-296.320(4)(b)2. and 62-296.513(1)(c)  
5 17-2.610(2), F.A.C., and except as may be modified herein.  
6

7 **1-3.61 PARTICULATE EMISSIONS:**

8 ~~In situations where~~ The particulate emission limits under RACT in Section 62-296.700, F.A.C., shall  
9 apply to all new and existing emission units. In situations where the particulate emission limits under RACT,  
10 pursuant to Section 62-296.700 ~~17-2.650(2)~~, F.A.C., are less restrictive than process weight limits pursuant to  
11 Section 62-296.320 ~~17-2.610~~, F.A.C., process weight limits shall apply, except as provided in Section 62-  
12 296.700(3) ~~17-2.650(2)(e)~~, F.A.C.  
13

14 **1-3.62 VISIBLE EMISSIONS:**

15 Visible emissions in Hillsborough County from a single source or combination of sources sharing a  
16 common discharge point shall not have an opacity greater than 20% except as otherwise specifically provided  
17 in these rules. The ability to comply with all other standards does not relieve a source from this 20% opacity  
18 standard.  
19

20 **1-3.63 SPECIFIC SOURCE EMISSIONS:**

21 Emissions for the following specific sources shall have the following limits in Hillsborough County  
22 regardless of provisions otherwise contained in this rule or in ~~Part VI of~~ Chapters 62-200 - 297 ~~17-2~~, F.A.C.:

23 a. sulfuric acid plants or plant sections manufacturing sulfuric acid - 10% opacity except for a 30  
24 minute period during plant start-up, with opacity for such period allowed up to 40%.

25 b. nitric acid plants producing weak nitric acid (50 to 70%) by pressure or atmospheric pressure  
26 process - no visible emissions.

27 c. existing fossil fuel steam generators - sulfur dioxide emissions from liquid fuel shall be limited to  
28 1.1 pounds per million BTU heat input ~~when liquid fuel is burned~~.

29 d. fossil fuel steam generators - visible emissions are limited to 20% opacity except for either one six-  
30 minute period per hour during which opacity shall not exceed 27 percent, or one two minute period per hour  
31 during which opacity shall not exceed 40 percent. The option selected shall be specified in the emission unit's  
32 construction and operation permits. ~~excess emissions and except for any two minute period in any hour where~~  
33 ~~opacity to 40% is allowed.~~

34 e. bulk gasoline terminals - loading of liquid product into gasoline tank trucks shall be limited to  
35 vapor-tight gasoline tank trucks.  
36

1     **PART 7**

2     **1-3.70     SOURCE SAMPLING AND MONITORING:**

3             Source sampling and monitoring shall be performed in compliance with Department and EPA  
4 requirements so as to determine as accurately as possible actual operational emissions.

5

6     **PART 8 (Reserved)**

7     ~~**1-3.80     MOBILE SOURCE:**~~

8     ~~1.     No person shall cause, let, permit, suffer or allow the emission of smoke from motor vehicles on  
9 public roadways which is visible within the proximity of the engine exhaust outlet for a period of more than (5)  
10 five seconds.~~

11     ~~2.     For purposes of this part:~~

12     ~~a.     "smoke" is defined as small gas borne and airborne particles, exclusive of water vapor, from a  
13 process of combustion, in sufficient number to be visible.~~

14     ~~b.     "motor vehicle" is defined as any device powered by an internal combustion engine,  
15 excluding 2 cycle gasoline engines manufactured prior to 1976, and on or in which any person or property may  
16 be transported.~~

**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.



THURSDAY, MARCH 19, 1998 - ENVIRONMENTAL PROTECTION COMMISSION - DRAFT  
MINUTES

The Environmental Protection Commission (EPC), Hillsborough County, Florida, met in Regular Meeting, scheduled for Thursday, March 19, 1998, at 10:00 a.m., in the Boardroom, County Center, Tampa, Florida.

The following members were present: Chairman Jan Platt and Commissioners Joe Chillura, Chris Hart (arrived at 10:22 a.m.), Jim Norman, Thomas Scott, and Ed Turanchik.

The following member was absent: Commissioner Dottie Berger (previously scheduled meeting with the Florida Mental Health Commission).

Chairman Platt called the meeting to order at 10:10 a.m., followed by the pledge of allegiance to the flag, and the invocation by Commissioner Scott.

PUBLIC HEARINGS

Consider Amendments to Rule 1-4, Open Burning Rule - Mr. Anthony D'Aquila, EPC staff, Air Management Division, explained the proposed rule amendment clarified definitions and included polyethylene plastic potting containers in the definition of agricultural plastic; clarified that open burning prohibition included burning of maintenance clearing yard trash; deleted references to the County's energy recovery facility; clarified when written authorization of the director was not required even though permission of other agencies might be; referenced the National Fire Protection Association standards for emergency training instructions; corrected references to State regulations; allowed and provided conditions for the open burning of agricultural plastic potting containers; and provided for severability and an effective date.

Mr. D'Aquila explained the revisions had been reviewed and modified, as appropriate, by the Citizens Environmental Advisory Committee (CEAC) who had recommended approval. Mr. Darrell Howton, Director, Wetlands Division, responded to questions by Chairman Platt regarding impacts to the wetlands. Chairman Platt called for public comment; there was no response. **Commissioner Scott moved approval, seconded by Commissioner Norman, and carried five to zero.** (Commissioner Hart had not arrived; Commissioner Berger was absent.)

Consider Amendments to Rule 1-8, Mobile Source Rule - Mr. D'Aquila stated the proposed amendments clarified that State and federal emission control strategies were important to maintaining attainment; clarified that onboard

THURSDAY, MARCH 19, 1998 - DRAFT MINUTES

diagnostic systems were part of the emission control systems of motor vehicles; deleted unnecessary definitions; amended the prohibition regarding sale of vehicles without inspection certificates, and provided that dealer certificates were valid for one year; deleted the prohibition of advertising fuel additives for sale; prohibited the release of air conditioner refrigerants; provided prohibitions and conditions for installing, repairing, or servicing motor vehicle air conditioners; deleted outdated provisions relating to fuel switching and vapor balance systems; deleted posting requirements regarding fuel switching; clarified that periodic inspections shall include government and private fleets; deleted the standard minimum penalties for fuel switching, pump nozzles, and notices; corrected number references and clarified wording; and provided for severability and an effective date.

CEAC had reviewed Chapter 1-8, Mobile Sources, and recommended approval. Mr. D'Aquila responded to Chairman Platt's questions regarding vehicles that needed to be inspected. He stated there was the potential in the year 2000 that the Motor Vehicle Inspection Program (MVIP) might sunset. There would be no statewide program to ensure vehicles were in compliance; at that point, the County should consider the reintroduction of its roadside pullover policy. Chairman Platt expressed interest in seeing how that was enforced.

Mr. Steven Morris, 18520 Wayne Road, Odessa, concurred with sunsetting the MVIP. Mr. D'Aquila explained that the MVIP was a State operation. Mr. Iwan Choronenko, Director, Air Division, concurred with Mr. Morris' comments that the process incurred a hidden penalty on Hillsborough and Pinellas County citizens. He explained proposed Senate and House bills that would further punish citizens of those counties. The Environmental Protection Agency (EPA) had been working under the proposed Clear Air Act to include additional counties under the air shed; however, that had not happened. Mr. Choronenko felt the basic Inspection and Maintenance (I&M) program would probably discontinue. EPC Executive Director Roger Stewart said the EPC had always advocated the program be statewide. He commented on roadside pullovers.

Commissioner Norman asked if staff had gone to the local Legislative Delegation to request an immediate repeal instead of waiting for a sunset. Mr. Stewart had done so for two years. Mr. Choronenko explained that in the bills currently introduced into legislation, staff had taken strong exception against the proposal. It was appropriate to remove the inspection program because Hillsborough County had matured and was meeting the air quality standards. Commissioner Norman felt staff should pursue the Legislative Delegation to obtain that change. Mr. Choronenko clarified for Commissioner

THURSDAY, MARCH 19, 1998 - DRAFT MINUTES

Turanichik that the current basic I&M program should be discontinued. The program had served a lot of useful purposes, but it was no longer meeting the County's fundamental requirements, which was to be more concerned with oxides of nitrogens as precursors to ozone formation; the current program did not allow the County to check for that particular pollutant. Commissioner Norman moved to direct EPC staff to go before the Hillsborough County Legislative Delegation the next time they met and ask that body to take a position that the County opposed and wanted the inspection program eliminated.

Commissioner Chillura asked for the net results over the next five years, in terms of air quality standards and the maintenance category, if the County were to abandon the program. Mr. Choronenko responded that if the provisions of Rule 1-8 were enforced, abolishment of the program would do no harm. The onboard diagnostic equipment that was increasingly put into vehicles might eliminate the need for the program. Commissioner Norman said the Legislative Delegation would meet again in January, at that point staff should request repeal of the program. Following clarification of the issue by Mr. D'Aquila and EPC Legal Counsel Sara Fotopulos regarding repeal of the program, Commissioner Turanichik felt it was better to defer the item for another month; he wanted to understand how it would affect the County from a regulatory and contractual standpoint. Commissioner Turanichik moved to continue the item raised by Commissioner Norman to the next EPC meeting to understand the different pieces of it and how they fit together. The motion was seconded by Commissioner Scott and carried four to two; Commissioners Chillura and Norman voted no. (Commissioner Berger was absent.) Commissioner Scott moved the amendments to Rule 1-8, Mobile Source Rule, seconded by Commissioner Turanichik, and carried six to zero. (Commissioner Berger was absent.)

CITIZENS WISHING TO APPEAR

Ms. Denise Layne, president, Lutz Civic Association, P. O. Box 1, Lutz, commented on the interlocal agreement with West Coast Regional Water Supply Authority (WCRWSA). She asked if wetlands permitting was being delegated to WCRWSA. Attorney Fotopulos responded in the negative. Ms. Layne questioned whether anyone from the Hillsborough River Board had been consulted regarding what that might do to the waterways. Ms. Layne was concerned that the agreement was as important as the school siting agreement and asked why more public hearings on the issue had not been held. Chairman Platt stated a public hearing was scheduled for March 31; she asked that the document be issued to Board members prior to that meeting. Commissioner Turanichik

THURSDAY, MARCH 19, 1998 - DRAFT MINUTES

reported that a final draft of the document would be available on Monday. There had been 24 public meetings on the issue.

Mr. Steven Morris, 18520 Wayne Road, Odessa, president Keystone Civic Association, said those people living on wells, small ponds, and wetlands were concerned about what would happen to their property rights. He felt it should be done right the first time. Commissioner Norman had met with County Administrator Daniel A. Kleman and had asked him to provide answers to some questions at the next meeting. Chairman Platt had submitted a list of questions by Mr. Morris on behalf of the Keystone Civic Association, which had been sent to Mr. Kleman. Chairman Platt distributed a letter from Ms. Alison Edwards, conservation chairman, The Sierra Club, in which she had voiced some concerns regarding EPC jurisdiction and equity.

CEAC ITEMS OF INTEREST

Mr. Russell Thomas, CEAC chairman, said Attorney Fotopulos had given a presentation on the WCRWSA governance issue at their last meeting. He had read the draft EPC agreement and had attended a meeting the previous day on the governance issue. CEAC commented that the EPC governance agreement consolidated the process of permit review and permit and operational oversight into a single process. CEAC supported the concept of bringing EPC into that fold. The intent and spirit of the document seemed to bring the entire review process under one umbrella. It might provide opportunities for EPC to be involved, particularly in consumptive use permitting, where historically they had to fight for that opportunity.

Commissioner Turanchik said the intent of the agreement was not to have EPC give up anything, but to channel its jurisdictional powers into an alternative and dispute resolution methodology to which all member governments would agree. Chairman Platt said the citizens wanted to make sure the regulatory and enforcement powers of EPC were not diminished under the agreement.

CONSENT AGENDA

Approval of Minutes for December 18, 1997; January 15 and February 17, 1998; Monthly Activity Reports; Legal Department Monthly Reports; Pollution Recovery Fund; and Gardinier Settlement Fund. Commissioner Turanchik moved approval of the consent agenda, seconded by Commissioner Norman, and carried four to zero. (Commissioners Hart and Scott were out of the room; Commissioner Berger was absent.)

THURSDAY, MARCH 19, 1998 - DRAFT MINUTES

ADMINISTRATION

Authorize Executive Director to Execute Contracts for Budgeted Items - Mr. Tom Koulianos, EPC Director of Finance and Administration, requested that Mr. Stewart be granted the authority to execute two contracts--the Internet agreement and the postage meter contract. **Commissioner Turanchik moved approval, seconded by Commissioner Norman, and carried four to zero.** (Commissioners Hart and Scott were out of the room; Commissioner Berger was absent.) Mr. Koulianos requested EPC Board approval that Mr. Stewart be allowed to execute contracts in the normal course of business for items included in EPC's budget request. Following conversation on the item, **Commissioner Norman moved to establish a threshold of \$10,000, seconded by Commissioner Turanchik, and carried five to zero.** (Commissioner Scott was out of the room; Commissioner Berger was absent.)

LEGAL DEPARTMENT

Interlocal Governance Agreement Report - Attorney Fotopulos handed out a draft copy of the agreement and noted a correction in which she had included, by mistake, references to delegated programs. The draft proposal provided that for all State and federal permits, except for delegated permits, binding arbitration would be the method by which a dispute would be resolved. It also provided that when EPC issued one of its own permits, arbitration would be the method by which a dispute would be resolved; EPC would continue to have authority and power to issue its own permits; and EPC would continue to be able to process, on behalf of the Department of Environmental Protection (DEP), permits that DEP issued. Therefore, EPC would continue to be involved in the normal permitting process. EPC would give up the ability to challenge a State or federal permit after it was issued, because EPC would have had the opportunity before it was issued to deal with the substance of the permit through arbitration. EPC would be required to monitor WCRWSA's permitting development process so EPC would know when there was an issue of concern. Attorney Fotopulos explained the agreement would require EPC's involvement at an earlier stage.

Violation enforcement of a permit condition would be through mediation followed by a process currently in the Statute that required an agency/governments to comply with its laws and enforce its permit conditions. It did not allow for anything more than injunctive relief, but the injunction was to require compliance with the permit condition. EPC permits would continue to be enforced as currently done. Discussion had been held at the meeting held the previous day regarding permits for activities outside of

THURSDAY, MARCH 19, 1998 - DRAFT MINUTES

Hillsborough County. EPC did not have regulatory authority over those permits; however, if an activity outside of Hillsborough County caused adverse impact within the County, EPC would have the right to seek an injunction or obtain damages. It was decided not to prohibit EPC from doing that, but as a remedy, if EPC ever had to do that, the member local governments would no longer be restricted by their waivers in the governance agreement.

Regarding the emergency injunctive relief currently in place for any activity within Hillsborough County that would cause immediate or irreparable harm, it was agreed that EPC would continue to have that ability; it would not have that ability if only seeking to reduce permitted pumpage levels. The agreement dealt with pending permitting applications, which would be listed as an attachment to the agreement; EPC would have notice of said permit applications. If or when it becomes binding, EPC would either ask for arbitration on those issues or give up any objections.

Attorney Fotopulos had suggested that the severability clause provide that if one part of the agreement were found to be unenforceable that none of it would continue to be enforceable, unless it was reaffirmed by the parties. The legislation defined EPC as "a governmental or quasi-judicial board or commission established by local ordinance or special or general law where the governing membership of said board or commission was shared with, in whole or in part, or appointed by a member government or a water supply authority." Attorney Fotopulos felt that convoluted and potentially included other entities, and she suggested that language be simplified by referring to local environmental programs whether created by local ordinance or special or general law. That covered EPC, which was the intent. There were some other confusing provisions, which could be clarified, as she outlined in a memorandum to EPC Board members. The end result of the legislation was that if the entire package and legislation were adopted and an agreement had been reached, then, that which was agreed to would be binding. If one piece of it did not work, there would not be an agreement. Without an agreement, if the legislation was properly phrased, EPC would not be harmed in any way. Attorney Fotopulos advised there would be a meeting at WCRWSA on Monday where the issue would again be addressed.

Commissioner Turanchik requested that Mr. Stewart and Attorney Fotopulos attend the meeting on Monday. The intent was to vote on an agreement as amended. He encouraged Board members to also attend that meeting. Commissioner Turanchik requested and obtained clarification from Attorney Fotopulos and WCRWSA general counsel Donald Conn on extraterritorial issues--

THURSDAY, MARCH 19, 1998 - DRAFT MINUTES

enforcement actions as it related to host member status. If the EPC raised a dispute within a county outside of Hillsborough County, the restrictions in the governance agreement that limited members to only disputing matters in which they were host member governments should be waived. Attorney Conn did not feel there was any problem with Attorney Fotopulos' changes.

Commissioner Norman asked, once the document was finalized, what would happen to current issues. Attorney Fotopulos had suggested there be a list of those issues so that EPC could be familiar with them. At the time the document became effective, EPC would have 30 days to decide whether or not there was an issue that needed to be addressed and to request arbitration. Commissioner Norman felt there were some gray area issues--ongoing challenges--and he did not know how those would be resolved. Commissioner Turanchik said EPC was not a party to pending litigation. The major outstanding issue was the St. Petersburg wellfields; he did not know if those had been handled in the agreement, but the position of the County Attorney's Office was for those challenges to remain open and not be finalized unless a partnership agreement was executed; the partnership agreement would then govern reductions of the wellfields. That issue would be discussed on Monday. Commissioner Norman asked if there was going to be an independent party to review the legality of the deal. Commissioner Turanchik responded in the affirmative. The agreement would not become effective until the legislature dealt with the legal issues, and it had to be approved by DEP.

Attorney Conn said the document was currently being reviewed by legislative committees. Certain statutory authorizations were needed in order to legally proceed with governance, and the secretary of DEP had to review and approve the document. It was hoped that all that would occur early fall so that governance would take effect on October 1. In order to move forward and avert an unfavorable resolution from Tallahassee, final action was needed within the next two weeks. By final action Attorney Conn meant member government review and approval of the documents. If there was substantial progress over the next two weeks the legislature would allow that process to play out and be concluded in the month of April.

Commissioner Hart requested clarification of the draft document that Attorney Fotopulos had distributed, portions of which seemed to be contradictory. Attorney Fotopulos responded that if there was an activity occurring outside of Hillsborough County that was affecting Hillsborough County, EPC had the authority to intervene and to try to address the problem before it would become part of a permit, or EPC would have the authority to react after it became a problem and try to obtain an injunction or damages. EPC would still

THURSDAY, MARCH 19, 1998 - DRAFT MINUTES

have the ability to address the concern of pumping out of Crystal Rivers. Commissioner Platt expressed concerns regarding the language in the document dealing with emergency and injunctive relief, which would diminish EPC's regulatory powers. Attorney Fotopulos was also concerned about pumpage levels and hoped the agreement was constructed in such a way that EPC would retain all its ability to address that issue. The language Commissioner Platt referenced on Page 6, Section 5, was in the emergency and/or injunctive relief section and was not relating to the normal regulatory activity. Conversation ensued regarding what was conceived as an emergency. Attorney Fotopulos said that portion was not intended to cover normal injunctive relief after appropriate hearing and litigation, et cetera. The provision was intended only to address emergency injunctive relief. Commissioners Hart and Turanchik suggested removing the word "or" from that title, which should then state emergency and injunctive relief. Attorney Fotopulos concurred.

Attorney Conn explained that in meetings held the previous day, Pasco County had been concerned that if a facility in Hillsborough County resulted in action being ordered by the court to reduce pumpage that would require increased pumpage in Pasco County. In attempting to address that item, language had been inserted in the document for the reason pointed out by Attorney Fotopulos, that pumpage impacts generally occur over a period of time and was not an emergency situation. He agreed with Attorney Fotopulos that the intent was to deal with the emergency situation and to limit the authority to bring an injunctive action to emergency situations and not to get into the long-term pumpage impact issue.

Attorney Conn explained that the EPC interlocal agreement being discussed was going to be part of the governance interlocal agreement. Pumpage restrictions and reductions resulted from the governance interlocal agreement and the partnership agreement. Commissioner Turanchik understood that EPC could still bring enforcement action of the environmental permit under Section 403-412. Section 5 said an emergency action should not be brought in for an injunction to stop wellfield permitting. Hillsborough County, as a host, under that circumstance, or EPC, could bring a 403-412 action. Attorney Conn agreed that EPC had full rights under Section 4 of the draft to bring a 403-412 action. EPC could also bring an action to request that WCRWSA recall or modify a permit. Attorney Fotopulos asked if the provision that EPC included in its draft agreement for a 403-412 challenge reached compliance only with permit conditions. Attorney Conn concurred. Following further clarification, Attorney Fotopulos asked what were EPC's remedies to correct an improperly permitted pumpage level. Attorney Conn responded that

THURSDAY, MARCH 19, 1998 - DRAFT MINUTES

Hillsborough County would have the right to go to WCRWSA and request a review and modification of the permit.

Following comments by Mr. Stewart regarding the document, Chairman Platt asked Attorney Fotopulos if she believed the document in any way diminished EPC's regulatory powers. Attorney Fotopulos responded that it had been her effort in all the discussion to ensure that EPC's ability to maintain and enforce the standards the EPC Board had put into the EPC rules remained intact. The process might change, but she believed it was possible to develop an agreement that retained the effect. Attorney Fotopulos could not respond to Chairman Platt's question about the particular draft being reviewed other than to say, to her knowledge, it was close to what was being sought. Board members concurred that they did not want to diminish the regulatory ability of EPC. Attorney Fotopulos would carefully review the next agreement and give the EPC Board a fully analyzed opinion on that issue. Chairman Platt would call for a special EPC meeting when Attorney Fotopulos was ready to provide input.

Regarding consumptive use permits, Commissioner Turanchik said EPC would be able to participate in binding arbitration as a member, whether Hillsborough County wanted to or not. That was something they did not have now, but they could always pursue it through the 120 proceedings. Secondly, EPC could enforce everything it could enforce now, except, before it did that, it would go through mediation. Whatever rights EPC had under current State law, it retained, except, mediation was required. That was the agreement. Commissioner Turanchik said EPC's counsel had to look at the language and understand whether or not it accomplished what had been agreed to. Attorney Fotopulos was the expert on EPC law and she had to advise the EPC Board on the language in the document.

Commissioner Norman was concerned with whether or not EPC had the necessary funding in its budget to cover all costs of arbitration under the agreement. Commissioner Turanchik said that was an EPC/Board of County Commissioners' issue. In response to Commissioner Norman, Commissioner Turanchik explained that to go through the process would cost approximately \$600,000. He noted another condition that was not yet included, whereas WCRWSA had to specify the permit conditions. Attorney Conn noted the governance document stated that whenever WCRWSA submitted an application it would have to specify the conditions. Commissioner Turanchik felt that language should also be included in the EPC agreement. **Commissioner Norman moved to continue the issue until the emergency meeting was called.** Chairman Platt suggested the motion should include having the Administrator reevaluate the amount of time

THURSDAY, MARCH 19, 1998 - DRAFT MINUTES

being attributed to the public workshop and public hearing. **Commissioner Norman concurred. The motion was seconded by Commissioner Turanchik.** Commissioner Hart included in the motion rejecting the draft being presented, that the EPC Executive Director and Attorney address the issues raised by the members of the EPC Board, and recommend to the EPC chairman when a special meeting was required to continue addressing the issues that had been raised. **Commissioner Norman included the amendment; the amended motion carried five to zero.** (Commissioner Scott was out of the room; Commissioner Berger was absent.)

#### AIR MANAGEMENT DIVISION

Medfly Report - Chairman Platt, because of the lateness in the hour, asked if the Medfly Memorandum of Understanding could be continued to the next EPC meeting. Mr. D'Aquila explained it was getting late in the year and he did not want to lose the impact as it got into the season where fruit fly problems were anticipated. There had been seven months of meetings, approximately 12 drafts of the documents, and he requested that Mr. Stewart be granted the authority to sign the document.

Ms. Elaine Holmes, 14502 North Dale Mabry, citizens for the responsible application of Malathion (CRAM), said CRAM had been pleased with the efforts and supported the document.

Commissioner Hart moved to authorize the executive director to sign the document, to endorse the chairman sending a letter to the Congressional Delegation and others in Congress and the United States Senators, outlining the EPC Board's position to that regard in addition to addressing prevention, but to also address federal funding for research and public education to address the issue. The motion was seconded by Commissioner Norman, and carried four to zero. (Commissioners Chillura and Scott were out of the room; Commissioner Berger was absent.)

THURSDAY, MARCH 19, 1998 - DRAFT MINUTES

There being no further business, the meeting was adjourned at 12:05 p.m.

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

ATTEST:  
RICHARD AKE, CLERK

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

pgs



APRIL 16, 1998 - ENVIRONMENTAL PROTECTION COMMISSION - DRAFT MINUTES

The Environmental Protection Commission (EPC), Hillsborough County, Florida, met in Regular Meeting scheduled for Thursday, April 16, 1998, at 9:00 a.m., in the Boardroom, County Center, Tampa, Florida.

The following members were present: Chairman Jan Platt and Commissioners Dottie Berger, Joe Chillura, Chris Hart, Jim Norman, and Thomas Scott (arrived at 9:17 a.m.).

The following member was absent: Commissioner Ed Turanchik

Chairman Platt called the meeting to order at 9:01 a.m. Following the pledge of allegiance to the flag, Commissioner Berger gave the invocation.

EPC Chief Counsel Sara Fotopolus informed the Commission of the off-the-agenda item to consider pollution recovery fund (PRF) requests recommended by the Citizen Environmental Advisory Committee.

CITIZENS WISHING TO APPEAR

Mr. J. Worth Williams, 641 Riverhills Drive, Temple Terrace, was concerned about phosphate spills in the County. He distributed an article about CF Industry's gypsum stack expansion in Plant City. He emphasized the need to protect the aquifer and the Hillsborough River. Mr. Roger Stewart, Executive Director, EPC, said he would agenda the issue for the next EPC meeting.

CONSENT AGENDA

- A. Approval of Minutes - None
- B. Monthly Activity Reports
- C. Legal Department Monthly Reports
- D. Pollution Recovery Fund
- E. Gardinier Settlement Fund

Commissioner Chillura moved the Consent Agenda, seconded by Commissioner Hart, and carried five to zero. (Commissioner Scott had not arrived, and Commissioner Turanchik was absent.)

CITIZENS ENVIRONMENTAL ADVISORY COMMITTEE (CEAC)

Off-the-Agenda Item - Attorney Fotopolus verified that CEAC had been made aware of EPC's time rescheduling. She reviewed the requests for PRF for two time-sensitive projects. CEAC had received a request for \$15,000 for Earth

THURSDAY, APRIL 16, 1998 - DRAFT MINUTES

Day Tampa Bay 1998; staff's recommendation to CEAC was to consider funding \$5,000; CEAC was recommending EPC approve \$2,500 for the Earth Day project.

A request had been received from Mr. James Anderson for \$50,700 to restore existing propeller scars and demonstrate a new technique for planting and growing seagrass in Cockroach Bay. CEAC recommended \$37,444 be approved for the project. Mr. Anderson explained that he had built two specialized boats that would be used in the project. In answer to Commissioner Berger, Mr. Anderson confirmed his methods had proven to be faster. Chairman Platt would hesitate to approve more than what CEAC was recommending without a CEAC representative explaining the reasons for the recommended amount; there were other people planting seagrass. In answer to Commissioner Hart, Attorney Fotopolus said the project was time-sensitive because the current time was the correct season to begin planting. If the project worked, CEAC would consider funding the project for a second year. **Based on that, Commissioner Hart moved CEAC's recommendations for both projects. Commissioner Norman seconded the motion and added for Mr. Anderson to go back before CEAC with a case for more funds and come back before EPC, then more money might be forthcoming.**

In answer to Commissioner Chillura, Attorney Fotopolus explained that the process was a response to a request for a grant from the PRF and not a request for proposal (RFP). Commissioner Chillura thought criteria should be designed and an RFP issued to see if anyone else could provide the service. If Mr. Anderson was the only person who could provide the service, then he should be paid accordingly. Attorney Fotopolus stated that if the Commission determined the project was something it wanted to initiate and fund, an RFP could be issued. Mr. Stewart explained that, since the project had not been budgeted, an RFP could not be issued. Attorney Fotopolus said the PRF could be used to fund the project through an RFP, which was what Commissioner Chillura wanted to do. Commissioner Berger thought Mr. Anderson should be applauded for taking an initiative and caring about the community, and EPC should let him get started on the project. **The motion carried six to zero.** (Commissioner Turanchik was absent.)

LEGAL DEPARTMENT

Request Authority to Schedule Public Hearing to Amend Chapter 1-3, Air Pollution Rule - Attorney Fotopolus stated the public hearing would be scheduled for June 18, 1998. **Commissioner Berger moved for approval, seconded by Commissioner Norman, and carried six to zero.** (Commissioner Turanchik was absent.) The item was reconsidered later in the meeting.

THURSDAY, APRIL 16, 1998 - DRAFT MINUTES

Consideration of EPC/West Coast Regional Water Supply Authority Interlocal Agreement - Chairman Platt explained that because Commissioner Turanchik was unable to attend the meeting, a discussion on the agreement had been rescheduled for April 22 at 11:00 a.m. Mr. Stewart agreed to send EPC written material to review before the discussion. Commissioner Chillura moved for EPC to convene Wednesday, April 22, 1998, at 11:00 a.m., and staff supply a list of advantages and disadvantages for EPC to stay in or out of the issue. The motion was seconded by Commissioner Norman and carried six to zero. (Commissioner Turanchik was absent.)

Attorney Fotopolus asked for a motion to reconsider the vote for scheduling the public hearing. Commissioner Scott moved to reconsider. The motion was duly seconded and carried six to zero. (Commissioner Turanchik was absent.) Attorney Fotopolus would verify the correct date for the public hearing at the next meeting.

#### EXECUTIVE DIRECTOR

Authorize Chairman to Sign Report on Legislative Audit - A status report on EPC's audit recommendations had to be submitted to the Legislative Delegation by April 30, 1998. Mr. Stewart asked for the Chairman to submit the report. Commissioner Scott so moved, seconded by Commissioner Hart, and carried six to zero. (Commissioner Turanchik was absent.)

Consider Joint Report on Citizens Audit Advisory Board (CAAB) Resolutions 1 and 5 - Mr. Stewart referred to the memorandum in backup that urged the Board of County Commissioners (BOCC) and EPC to work toward an application for delegation of the Environmental Resource Permit and have the BOCC include EPC in adopting a unified Geographic Information System. Action was not needed; staff would continue to work on the resolutions.

Adopt National Estuary Program (NEP) Resolution - Mr. Stewart said staff recommended EPC adopt the resolution on the Nitrogen Management Action Plan. Mr. Tom Cardinale, EPC staff, explained that the resolution was a nonbinding commitment to implement a reduction in nitrogen discharges, which was an important issue related to the restoration of seagrasses. Section 5 stated that EPC would be cooperative in any permitting that might be required for an action plan. In answer to Chairman Platt, Mr. Cardinale said that a 24-member consortium had developed the resolution and would sign it. Commissioner Chillura moved the resolution, seconded by Commissioner Hart, and carried six to zero. (Commissioner Turanchik was absent.) Commissioner Chillura moved to ask Tampa Electric Company and Florida Power Corporation to

THURSDAY, APRIL 16, 1998 - DRAFT MINUTES

join the Tampa Bay Nitrogen Management Consortium. The motion was seconded by Commissioner Berger. Commissioner Chillura added that the Chairman should prepare a letter encouraging them to participate. The motion carried six to zero. (Commissioner Turanchik was absent.)

AIR MANAGEMENT DIVISION

Status Report: Motor Vehicle Inspection Program (MVIP) - Mr. Iwan Choronenko, Director, Air Management Division, EPC, reviewed the summary sheet in backup and commented that the MVIP had a positive effect in improving air quality in the six major counties across the State that were required to participate in the program. The Intermodal Surface Transportation Efficiency Act locked the County into the inspection maintenance protocol. MVIP had flaws and inequities; some citizens living in the six counties registered their vehicles in other counties to avoid the inspection. A bill that relaxed the current standards had just been introduced--House Bill 1377; even if it were approved, the Legislature would still have to develop another program in the year 2000 when MVIP would sunset. The new program might have to require higher standards due to two new federal air quality standards.

Commissioner Norman said that the reality was that Hillsborough County citizens were being taxed to fund the State program while other counties were exempt. He did not believe the County was stuck with the program until the year 2000, and he knew it would be easy for the Legislature to extend the program. Commissioner Norman thought the appropriate paperwork should be given to the local legislative office informing them that the tax was not fair, and EPC would lead the charge to overturn the unfair taxation charged to the County's citizens. Messrs. Choronenko and Stewart agreed. Commissioner Norman moved that as a motion. The motion was seconded by Commissioner Scott. Commissioner Hart commented that the State was making millions off the program while overtaxing the County; if the program continued, it should only include vehicles more than five years old and should also look at safety features, such as brakes and lights. In answer to Commissioner Chillura, Attorney Fotopolus explained that a defense to an equal protection argument would be that there had been a legitimate basis for the distinction in requiring MVIP in the six counties because of existing air pollution problems. The fact that Hillsborough County was in attainment might shift that argument. Commissioner Chillura pointed out that air pollution did not stop at any county line and asked for Attorney Fotopolus to research the issue. In answer to Chairman Platt, Mr. Choronenko confirmed that the County was still under a federal mandate to maintain the MVIP as

THURSDAY, APRIL 16, 1998 - DRAFT MINUTES

part of the State's Inspection and Maintenance Program to ensure that the County did not regress into a nonattainment status. He did not think MVIP was bad but had agreed on the inequity of the program. Mr. Stewart clarified that, because of low air quality, the State was mandated to have a state-implemented plan to remedy the problem, and MVIP had been chosen as part of the overall package to meet air quality standards. The MVIP could be dropped and a different plan could be implemented. The federal government did not specifically choose MVIP. Chairman Platt stated that the County had accepted the program because the trade-off was that the large industrial companies would have had to cut back. Mr. Stewart said they had already done that.

Commissioner Chillura asked if there was any relevance to the announcement that Tampa Electric's rates would increase 2 to 5 percent to meet air quality standards. Mr. Choronenko explained that all major utilities had to install additional pollution control equipment by the year 2000 to meet the second stage of the federal clean air act amendment of 1990. Chairman Platt asked for additional information before she would vote for the motion. Commissioner Norman explained that, included in the motion, staff was directed to come up with a position paper on the County meeting air pollution standards now, and if the County met all federal standards, move to abolish MVIP totally; if the County did not meet the standards, move that MVIP was a program that should be shared equally by all counties in the state of Florida; the position paper would give the analysis. The motion carried six to zero. (Commissioner Turanchik was absent.)

Request Approval of Memorandum of Agreement (MOA) - Mr. Tony D'Aquila, Air Management Division, EPC, reviewed the third renewal revision of the MOA that adopted the transportation conformity regulations with the United States Environmental Protection Agency. Commissioner Chillura moved to concur with the MOA, because it was a duplicate of previous MOAs, seconded by Commissioner Hart, and carried six to zero. (Commissioner Turanchik was absent.)

Chairman Platt read a letter from Commissioner Turanchik explaining that he was not available to attend the EPC meeting due to involvement in partnership negotiations in his capacity as chairman of the West Coast Regional Water Supply Authority. Commissioner Turanchik requested that Mr. Stewart and EPC staff meet with Dr. Scott Emery, County Water Resources Advisor, and Assistant County Attorney David Forziano prior to the meeting on Wednesday, April 22, 1998, to determine to what extent EPC could not rely on their resources, which citizens were already paying for. Mr. Stewart and Attorney Fotopolus agreed.

THURSDAY, APRIL 16, 1998 - DRAFT MINUTES

There being no further business, the meeting was adjourned at 10:04 a.m.

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

ATTEST:  
RICHARD AKE, CLERK

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

jp

APRIL 27, 1998 - EPC SPECIAL MEETING - DRAFT MINUTES

The Environmental Protection Commission (EPC), Hillsborough County, Florida, met in Special Meeting to discuss West Coast Regional Water Supply Authority Governance Agreement Issues, scheduled for Monday, April 27, 1998, at 10:00 a.m., in the Boardroom, County Center, Tampa, Florida.

The following members were present: Chairman Jan Platt and Commissioners Dottie Berger (arrived at 5:36 p.m.), Joe Chillura, Chris Hart, Jim Norman (arrived at 5:36 p.m.), Thomas Scott, and Ed Turanchik.

Chairman Platt called the meeting to order at 10:32 a.m.

**Commissioner Turanchik moved to continue the EPC meeting until that afternoon at the conclusion of the Board of County Commissioners (BOCC) meeting on the governance and partnership agreements, seconded by Commissioner Scott, and carried five to zero. (Commissioners Berger and Norman had not arrived.)**

Chairman Platt called a recess at 10:33 a.m. and reconvened the meeting at 5:36 p.m.

EPC Chief Counsel Sara Fotopolus commented that the only change to the EPC agreement was to add the provision that the BOCC would ensure that EPC had sufficient funding, and Commissioner Turanchik had said all the member governments had agreed the provision could be included.

**Commissioner Turanchik moved the EPC agreement amended with that funding provision, seconded by Commissioner Berger, and carried six to zero. (Commissioner Chillura had left the meeting.)**

There being no further business, the meeting was adjourned at 5:37 p.m.

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

ATTEST:  
RICHARD AKE, CLERK

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

jp

**ACTIVITIES REPORT  
WATER MANAGEMENT DIVISION**

**MAY, 1998**

**A. ENFORCEMENT**

1.	New Enforcement Cases Received:	1
2.	Enforcement Cases Closed:	4
3.	Enforcement Cases Outstanding:	22
4.	Enforcement Documents Issued:	1
5.	Warning Notices:	14
	a. Issued:	7
	b. Resolved:	7
6.	Recovered costs to the General Fund:	\$ 25.00
7.	Contributions to the Pollution Recovery Fund:	\$7,100.00

<u>Case Name</u>	<u>Violation</u>	<u>Amount</u>
a. Croft's MHP	Improper operation/maintenance	\$ 500.00
b. Eastwood Estates MHP	Improper operation/maintenance	\$ 200.00
c. Town & Country MHP	Failure to meet CO pond cleaning deadline	\$6,400.00

**B. PERMITTING - DOMESTIC**

1.	Permit Applications Received:	17
	a. Facility Permit:	0
	(i) Types I and II	0
	(ii) Type III	0
	b. Collection Systems-General:	10
	c. Collection Systems-Dry Line/Wet Line:	7
	d. Residuals Disposal:	0
2.	Permit Applications Approved:	22
	a. Facility Permit:	4
	b. Collection Systems-General:	10
	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:	0
5.	Permits Withdrawn:	0

6. Permit Applications Outstanding:	35
a. Facility Permit:	<u>19</u>
b. Collection Systems-General:	<u>8</u>
c. Collection Systems-Dry Line/Wet Line:	<u>8</u>
d. Residuals Disposal:	<u>0</u>
<b>C. INSPECTIONS - DOMESTIC</b>	<b>77</b>
1. Compliance Evaluation:	16
a. Inspection (CEI):	<u>2</u>
b. Sampling inspection (CSI):	<u>14</u>
c. Toxics Sampling Inspection (XSI):	<u>0</u>
d. Performance Audit Inspection (PAI):	<u>0</u>
2. Reconnaissance:	43
a. Inspection (RI):	<u>15</u>
b. Sample Inspection (SRI):	<u>2</u>
c. Complaint Inspection (CRI):	<u>23</u>
d. Enforcement Inspection (ERI):	<u>3</u>
3. Special:	18
a. Diagnostic Inspection (DI):	<u>0</u>
b. Residual Site Inspection (RSI):	<u>0</u>
c. Preconstruction Inspection (PCI):	<u>2</u>
d. Post Construction Inspection (XCI):	<u>16</u>
<b>D. PERMITTING - INDUSTRIAL</b>	
1. Permit Applications Received:	2
a. Facility Permit:	<u>0</u>
(i) Types I and II	<u>0</u>
(ii) Type III with groundwater monitoring	<u>0</u>
(iii) Type III w/o groundwater monitoring	<u>0</u>
b. General Permit:	<u>1</u>
c. Preliminary Design Report:	<u>1</u>
(i) Types I and II	<u>1</u>
(ii) Type III with groundwater monitoring	<u>0</u>
(iii) Type III w/o groundwater monitoring	<u>0</u>
2. Permits Recommended to DEP for Approval:	<u>1</u>
3. Permit Applications Outstanding:	30
a. Facility Permits:	<u>30</u>
b. General Permits:	<u>0</u>
<b>E. INSPECTIONS - INDUSTRIAL</b>	<b>14</b>
1. Compliance Evaluation:	7
a. Inspection (CEI):	<u>7</u>
b. Sampling Inspection (CSI):	<u>0</u>
c. Toxics Sampling Inspection (XSI):	<u>0</u>
d. Performance Audit Inspection (PAI):	<u>0</u>

2. Reconnaissance:	<u>7</u>
a. Inspection (RI):	<u>4</u>
b. Sample inspection (SRI):	<u>0</u>
c. Complaint Inspection (CRI):	<u>3</u>
<b>F. CITIZEN COMPLAINTS</b>	
1. Domestic:	<u>29</u>
a. Received:	<u>13</u>
b. Closed:	<u>16</u>
2. Industrial:	<u>5</u>
a. Received:	<u>2</u>
b. Closed:	<u>3</u>
3. Water Pollution:	<u>15</u>
a. Received:	<u>12</u>
b. Closed:	<u>3</u>
<b>G. RECORD REVIEWS</b>	
1. Permitting:	<u>12</u>
2. Enforcement:	<u>0</u>
<b>H. ENVIRONMENTAL SAMPLES ANALYSED FOR:</b>	
1. Air Division:	<u>83</u>
2. Waste Division:	<u>3</u>
3. Water Division:	<u>168</u>
4. Wetlands Division:	<u>0</u>
<b>I. SPECIAL PROJECT REVIEWS</b>	
1. DRI's:	<u>2</u>
2. Permitting:	<u>0</u>
3. Enforcement:	<u>2</u>
4. Other:	<u>0</u>
<b>J. WATER QUALITY MONITORING SPECIAL PROJECTS</b>	
1. Data Review	<u>2</u>
2. Special Sampling	<u>0</u>
3. Biomonitoring/Toxicity Reviews (DW)	<u>8</u>
4. Biomonitoring/Toxicity Reviews (IW)	<u>1</u>
5. Other	<u>0</u>
<b>K. TAMPA PORT AUTHORITY/DEP DREDGE &amp; FILL</b>	<u>22</u>

AR06.98

ASSESSMENT SECTION	- TOTALS
A. EPC Wetlands Reviews	
1. Wetland Delineations	
a. Wetland Delineations (\$100)	60
b. Wetland Delineation Dispute	1
c. Wetland Line Survey Reviews	18
d. Additional Footage Fees	\$408.15
2. Misc. Activities in Wetlands (\$0, \$50 or \$80 as applicable)	
a. Nuisance Vegetation	5
b. Other	18
3. Impact/Mitigation Proposal (\$645)	6
4. Mitigation Agreements Recorded	0
5. FDOT Reviews	0
B. EPC Delegation/Reviews from State/ Regional/ Federal Authorities	
1. Tampa Port Authority Permit Apps. (\$50 or \$150 as applicable)	20
2. Wastewater Treatment Plants (FDEP)	5
3. FDEP Wetland Resource Apps.	0
4. FDEP Grandfathered Delineation	0
5. SWFWMD Wetland Resource Apps.	0
6. Army Corps of Engineers	0

7.	Interagency Clearinghouse Reviews	0
8.	DRİ Annual Report	0
C. Hills. County/ Municipality Permit Application Reviews		
1.	Land Alteration/Landscaping (\$80)	4
2.	Land Excavation (\$785 or \$650 as applicable)	0
3.	Phosphate Mining	
a.	Unit Review/Reclamation	0
b.	Annual Review/Inspection	0
4.	Rezoning	
a.	Reviews (\$70)	25
b.	Hearings	0
c.	Hearing Prep (hours)	0
5.	Site Development/Commercial (\$300)	
a.	Preliminary	13
b.	Construction	20
6.	Subdivision	
a.	Preliminary Plat (\$140)	12
b.	Master Plan (\$550)	0
c.	Construction Plans (\$250)	11
d.	Final Plat (\$90)	8
e.	Waiver of Regulations (\$100)	0
f.	Platted, No-Improvements (\$100)	5
g.	Minor - Certified Parcel (\$100)	2
7.	As-Builts	0

8.	Miscellaneous Reviews (no fees)	
a.	Wetland Setback Encroachment	3
b.	Easement /Vacating	0
c.	NRCS Review	0
9.	Preapplications (no fees)	
a.	Review preparation (hours)	36
b.	Meetings/Reports	1
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)	80
2.	Other Meetings	65
3.	Telephone conferences	733
4.	Presentations	14.5
5.	Correspondence	201.5
6.	Correspondence Review (hours)	16.45
7.	Special Projects (hours)	54
8.	On-site visits	83
9.	Appeals	0

ADMINISTRATIVE ENFORCEMENT/ENF. COORDINATOR	
A. New Cases Received	3
B. Activities	
1. Ongoing Cases	
a. Active	48
b. Legal	3
c. Tracking	35
2. Number of "Notice of Intent to Initiate Enforcement"	1
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	1
2. Criminal Cases Closed	0
3. Cases Referred to Legal Dept.	0
D. Contributions to Pollution Recovery	\$5,000.00
E. Enforcement Costs Collected	\$714.95

## INVESTIGATIONS/COMPLIANCE SECTION

### A. Complaints

1. Received	51
2. Inspected	52
3. Closed	36

### B. Warning Notices

1. Issued	12
2. Return Inspections	34
3. Closed	10

### C. Mitigation

1. Compliance/Monitoring Reviews	16
2. Compliance Inspections	19

### D. Other Activities

1. Case Meetings	5
2. Other Meetings	52
3. Telephone conferences	379
4. File Reviews	8
5. Cases Referred to Enforcement Coordinator	3
6. Letters	43

## ADMINISTRATIVE/TECHNICAL SECTIONS

### A. Soil Scientist

1. Case Reviews	8
2. Field Soil Investigations	8
3. Soil Investigation Notes/Reports	8
4. Special Projects:	
- Peninsular Florida Riverine Hydrogeomorphic (HGM) Wetland Functional Assessment	
- Minimum Flows and Levels of Water Bodies in Hillsborough County	

### B. Administrative Support Staff

1. File Reviews	4
2. Unscheduled Reviews	1
3. Telephone Assistance	1811
4. Incoming Projects	135
5. Additional Info/Resubmittals-Revisions	20/19
6. Data Entry/Letters	430/164

## ENGINEERING STAFF

1. Meetings	37
2. Reviews	26
3. Aerial Reviews	14
4. Telephone Inquiries	64
5. Field Investigations	1

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TELEPHONE (813) 272-5788

WETLANDS MANAGEMENT DIVISION  
TELEPHONE (813) 272-7104

MEMORANDUM

DATE: June 16, 1998

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 MAY AGENDA BACKUP INFORMATION**

The following is a summary of activities for the month of May, 1998. If you would like more information concerning any of these activities please let me know.

WASTE MANAGEMENT DIVISION

**A. Administrative Enforcement**

1.	New cases received	<u>2</u>
2.	Ongoing administrative cases	
a.	Pending	<u>10</u>
b.	Active	<u>33</u>
c.	Legal	<u>14</u>
d.	Tracking Compliance (Admin.)	<u>12</u>
e.	Inactive/Referred cases	<u>25</u>
f.	Criminal compliance tracking	<u>22</u>
3.	NOI's issued	<u>0</u>
4.	Citations issued	<u>2</u>
5.	Consent Orders signed	<u>2</u>
6.	Civil contrib. to the Pollution Rec. Fund	<u>\$9,150.00</u>
7.	Criminal contrib. to the Pollution Rec. Fund	<u>\$0.00</u>
8.	Enforcement costs collected	<u>\$893.98</u>
9.	Cases referred to legal	<u>0</u>
10.	Cases closed	<u>3</u>



**B. Solid and Hazardous Waste**

1.	Permits (Received/Reviewed)	<u>65/38</u>
2.	EPC Authorization For Facilities Not Requiring DEP Permit	<u>0/0</u>
3.	Other permits and Reports	
	a. County Permits	<u>0/0</u>
	b. *Reports	<u>53/36</u>

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

4.	Inspections (total)	<u>191</u>
	a. Complaint	<u>53</u>
	b. Compliance/reinspections	<u>55</u>
	c. Facility Compliance	<u>3</u>
	d. Small Quantity Generator	<u>93</u>
5.	Enforcement	
	a. Complaints Received/Closed	<u>45/54</u>
	b. Warning Notice Issued/Closed	<u>3/4</u>
	c. Compliance Letters	<u>23</u>
	d. Letters of Agreement	<u>0</u>
	e. DEP Referrals	<u>0</u>
6.	Pamphlets, Rules and Material Distributed	<u>393</u>

**C. Underground Storage Tank - Cleanup Department**

1.	Inspections:	<u>0</u>
	a. Investigation	<u>0</u>
	b. SUPER Act	<u>0</u>
2.	Reports Received/Reviewed	<u>27/28</u>
	a. Contamination Assessment (CARs)	<u>4/4</u>
	b. Initial Remedial Action (IRA)	<u>8/1</u>
	c. Remedial Action Plans (RAPs)	<u>3/3</u>
	d. Site Rehabilitation Completion (SRCs)	<u>2/0</u>
	e. Others	<u>18/13</u>
3.	Reimbursement Applications	
	a. Received	<u>0</u>
	b. Reviewed	<u>50</u>

4.	State Cleanup Site Activities	
	a. Active Sites	<u>5</u>
	b. Funds Disbursed	<u>\$0.00</u>

**D. Underground Storage Tank Compliance Department**

1.	Inspections	
	a. UST Compliance	<u>66</u>
	b. AST Compliance	<u>26</u>
	c. UST Installation	<u>13</u>
	d. AST Installation	<u>5</u>
	e. UST Closure	<u>14</u>
	f. AST Closure	<u>0</u>
	g. *Other Inspections	<u>42</u>

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

2.	Installation Plans Reviewed	<u>25</u>
3.	Closure Plans & Reports Received/Reviewed	<u>20/24</u>
	a. Closure Plans Received/Reviewed	<u>13/15</u>
	b. Closure Reports Received/Reviewed	<u>7/9</u>
4.	Enforcement	
	a. Noncompliance Letters	<u>41</u>
	b. Warning Notices (issued/closed)	<u>2/1</u>
	c. Cases referred for Enforcement	<u>1</u>
	d. Complaints received/investigated	<u>2/2</u>
	e. Complaints Referred	<u>1</u>
	f. Cases Referred to DEP	<u>0</u>
5.	FPLIRP Checklists Completed	<u>3</u>
6.	Cleanup Notification Letters Issued	<u>6</u>
7.	Public Assistance	<u>200+</u>

<b>E.</b>	<b><u>Record Reviews</u></b>	<u>76</u>
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<b>F.</b>	<b><u>Public Information Projects</u></b>	<u>1</u>
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Several SQG staff members chaired and presented at the State wide annual SQG workshop.

MONTHLY ACTIVITIES REPORT  
AIR MANAGEMENT DIVISION  
May 1998

A.	Public Outreach/Education Assistance:	<u>22,742</u>
B.	Industrial Air Pollution Permitting	
1.	Permit Applications Received (Counted by Number of Fees Received):	
	a. Operating:	<u>1</u>
	b. Construction:	<u>7</u>
	c. Amendments:	<u>0</u>
	d. Transfers/Extensions:	<u>1/1</u>
2.	Delegated Permits Issued by EPC and Non-delegated Permits Recommended to DEP for Approval ( <sup>1</sup> Counted by Number of Fees Collected - <sup>2</sup> Except for Title V Facilities where it is Counted by Number of Emission Units affected by the Applicant's Request):	
	a. Operating <sup>1</sup> :	<u>5</u>
	b. Construction <sup>1</sup> :	<u>8</u>
	c. Amendments <sup>1</sup> :	<u>1</u>
	d. Transfers/Extensions <sup>1</sup> :	<u>2/1</u>
	e. Title V Operating <sup>2</sup> :	<u>0</u>
	f. Permit Determinations <sup>2</sup> :	<u>6</u>
3.	Intent to Deny Permit Issued	<u>0</u>
4.	General Permits	<u>1</u>
C.	Administrative Enforcement	
1.	Documents Issued:	
	a. Notice of Intent to Initiate Enforcement	<u>0</u>
	b. Citation	<u>0</u>
	c. Other _____	<u>0</u>
2.	Total Cases Initiated:	<u>0</u>
3.	Cases Resolved:	<u>1</u>
4.	Cases Referred to Legal Department:	<u>0</u>
5.	Consent Orders Signed:	<u>1</u>
6.	Contributions to the Pollution Recovery Fund: \$	<u>0</u>
	<u>Organization Name</u> <u>Violation</u> <u>Amount</u>	
a.		

D.	Inspections:	
1.	Industrial Facilities:	<u>5</u>
2.	Air Toxics Facilities:	
	a. Asbestos Emitters	<u>0</u>
	b. Area Sources (i.e. Drycleaners, Chrome Platers, etc...)	<u>27</u>
	c. Major Sources	<u>0</u>
3.	Asbestos Demolition/Renovation Projects:	<u>32</u>
4.	Gasoline Retailers:	<u>8</u>
5.	Auto Repair Facilities:	<u>82</u>
6.	Retail Auto Dealers:	<u>0</u>
7.	Automotive Parts Stores:	<u>0</u>
8.	Fleet Operators:	<u>0</u>
9.	CFC Facilities:	<u>0</u>
E.	Open Burning Permits Issued:	<u>8</u>
F.	Number of DOF Permits Monitored:	<u>126</u>
G.	Total Citizen Complaints Received:	<u>48</u>
H.	Total Citizen Complaints Investigated:	<u>46</u>
I.	Noise Sources Monitored:	<u>7</u>
J.	Air Program's Input to DRI's:	<u>2</u>
K.	Test Reports Reviewed:	<u>0</u>
L.	Compliance:	
1.	Warning Notices Issued:	<u>6</u>
2.	Warning Notices Resolved:	<u>1</u>
3.	Advisory Letters Issued:	<u>7</u>

FEES COLLECTED FOR AIR MANAGEMENT DIVISION  
Year-To-Date for FY98 as of  
May 1998

	Total Revenue
1. Non-delegated construction permit for an air pollution source	
(a) New Source Review or Prevention of Significant Deterioration sources	\$ 0
(b) all others	<u>\$ 0</u>
2. Non-delegated operation permit for an air pollution source	
(a) class B or smaller facility - 5 year permit	\$ 0
(b) class A2 facility - 5 year permit	<u>\$ 0</u>
(c) class A1 facility - 5 year permit	<u>\$ 0</u>
3. (a) Delegated Construction Permit for air pollution source (20% of the amount collected is forwarded to the DEP and not included here)	<u>\$3,440.00</u>
(b) Delegated operation permit for an air pollution source (20% of the amount collected is forwarded to the DEP and not included here)	<u>\$1,640.00</u>
(c) Delegated General Permit	<u>\$250.00</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	\$1,150.00
(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	\$290.00
(b) renovation greater than 1000 linear feet or 1000 sq ft	<u>\$600.00</u>
8. Open burning authorization	<u>\$3,400.00</u>
9. Enforcement Costs	<u>\$ 0</u>

LEGAL DEPARTMENT MONTHLY REPORT  
June 16, 1998

A. ADMINISTRATIVE CASES

NEW CASES [ 0 ]

EXISTING CASES [ 10 ]

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

**Truck Parts of Tampa:** EPC cited the owner, California Properties, 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, Orinulsion conversion project.) Objected to FDEP's proposed permit upon Florida Power & Light's failure to provide the required assurances that environmental criteria will be met. The Executive Director agreed to withdraw his objections to the air permit if certain conditions were added; the Hearing Officer recommended that the conversion project be permitted subject to those conditions. 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, 1997, the Siting Board remanded the case back to the Hearing Officer. Final hearings were held before an Administrative Law Judge (ALJ) during January and February, 1998. DEP staff continues to recommend certification and permitting subject to revised conditions. The ALJ's Recommended Orders again recommend certification subject to conditions and the parties exceptions taken to those recommended orders have been filed to be heard by the governor and cabinet on June 24.

**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. The additional information received November 1997 has been reviewed by staff and additional information requested. Counsel for Respondent, Bridge, has indicated that the additional information will be submitted as requested.

**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 to proceed with a contamination assessment and to provide a report of their findings so that settlement might be achieved. Upon discovering that the assessment has not taken place as anticipated, this matter has been referred to a hearing officer for processing. Scheduling Order has been entered with an August 1998 final hearing date.

**Metro Recycling & Disposal, Inc. Et al.:** Appealed EPC citation for operating a Materials Recovery Facility without the proper permits. FDEP confirmed the permit requirement under their rules. Anticipating FDEP'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 appealed the Pinellas Court's decision to not assume exclusive jurisdiction. Pursuant to our efforts to enforce the 1988 Memorandum of Agreement, a possible settlement of all issues for all parties has been proposed. The parties to the Memorandum of Agreement and the Martins have worked out the mitigation and restoration details and will present a proposed global settlement at this next meeting.

**672 Recovery, Inc.:** Under 84-446, Laws of Florida, respondent appealed EPC citation for unauthorized burning and waste disposal problems. The facility has implemented some corrections and has provided a plan for avoiding and handling similar situations in the future. Staff is continuing to monitor the facility. Regarding the underlying operation permit, respondent has requested a formal 120 hearing on DEP's intent to deny. If requested, EPC staff will assist in supporting DEP's position.

**Chiles:** Appealed EPC citation for improper operation and failure to properly close underground petroleum storage tanks. The Director's motion for summary disposition was granted in mid-April and a proposed recommended order has been submitted to the hearing officer. Matters not subject of EPC summary disposition motion have been resolved by agreement with the respondent.

**Lake Thonotosassa:** SWFWMD filed a letter to preserve its appeal rights regarding the conditions of approval for a SWIM restoration project in Lake Thonotosassa. Staff continues to negotiate with SWFWMD in an effort to find a solution to their concerns.

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

**RLN Corporation:** Appealed EPC citation directing that two underground storage tanks be upgraded or properly closed. The tanks have been removed and properly closed and financial information provided by Respondent as part of a request to reduce or waive civil penalties. In consideration of the Respondent's financial abilities a settlement was entered for a lump sum reimbursement of costs.

### **B. LITIGATION CASES**

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

**Hanna v. EPC:** Property owned filed suit against EPC claiming an unlawful deprivation of all beneficial use and enjoyment of the property i.e. an uncompensated "taking." The basis for the claim appears to be correspondence relating to a 1996 wetland delineation. EPC staff is reviewing the matter and preparing a response.

#### **EXISTING CASES [ 14 ]**

**Hughes Hard Chrome, Inc.:** Authority granted in 1993 regarding water violations. The company, which signed a consent order, went out of business on the affected site. Staff obtained approval to use Pollution Recovery Funds to conduct a Preliminary Contamination Assessment, to be recovered through litigation. Suit was filed and process served on four of five defendants. We have been unable to date to serve the record title owner, and discovery as to his existence and whereabouts is being pursued. Defendants Gates' Motion to Dismiss was denied; defendants have answered the complaint; and EPC has replied. The property was sold to new owners in April of 1998. We are proceeding with substitution of parties and discovery.

**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 was entered and the Defendants filed bankruptcy. Property has been auctioned to a third party purchaser who did not follow through with the purchase. The bankruptcy case closed in April of 1998. EPC is renewing the previously filed Motion for Judgment after Default and asking that a hearing be set on that motion.

**Marks:** Authority granted to take appropriate legal action for restoration of wetlands disturbed by the Mark's activities, penalties and costs. Suit filed and served. Defendants answered EPC's complaint and moved to transfer the case to the Plant City Division of the Circuit Court. Mediation held on March 31 produced an agreement in principle which is in the process of been reduced to a Settlement Agreement including a plan for restoration of the property.

**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 has been advised of existing cleanup programs for which the site may be eligible. The issue of abandoned tanks on the County's right of way has been separated from the operational violations, and suit was filed against the current facility owners and operators for correction, as well as civil penalties and recovery of enforcement costs. Defendants have filed their answers to the Complaint, met with staff, and a settlement agreement proposed to the Defendants is currently under review by their counsel.

**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 attempting to raise funds for a contamination assessment of the site and is reviewing a proposed settlement agreement addressing 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, working with the receiver, has established terms using available funds to achieve compliance, and a Settlement Agreement has been entered into by EPC and the receiver and approved by the court.

**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. GATX submitted, and EPC staff reviewed of an application for DEP approval of an "Alternate Procedure" which they claim would provide the required environmental protection. GATX has now submitted another "Alternative Procedure" taking into consideration EPC comments on the initial plan. The recently submitted materials are currently under review by DEP and EPC.

**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's has entered a settlement agreement with Plaintiff allowing for foreclosure of Plaintiff's lien subject to EPC's judgment lien. A judgment of foreclosure was entered, and the property sold to a third party at a May 8, 1998 sheriff's sale. The facility has not yet been brought into compliance. EPC is preparing to move against the existing operator (tenant).

**Slusmeyer:** Defendant has failed to comply with a prior judgment and injunction requiring proper closure of underground storage tanks. Discovery is proceeding to obtain injunctive relief.

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

**Metro Recycling, Inc.:** Authority granted 11/96 and EPC notified Metro of forthcoming litigation. Although DEP has issued a permit for this facility, EPC withheld the Director's Authorization. EPC filed suit seeking to compel compliance with regulations and to recover civil penalties and costs of the enforcement. A Motion for Temporary Injunction accompanies the suit. Metro has filed their answer and affirmative defenses. Awaiting service of process on the property owner.

**Plant Stop Inc.:** Authority granted in February, 1998, to proceed against responsible parties for violations pertaining to open burning. Complaint is being drafted.

**Star Cleaners:** Authority granted in February, 1998, to proceed against responsible parties for failure to submit required notice and obtain the required permit under Title V of the Federal Clean Air Act. Complaint has been filed and served. No response was filed and default has been entered by the court.

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

**Apollo Beach Cleaners:** Authority granted in February, 1998, to proceed against responsible parties for failure to submit required notice and obtain the required permit under Title V of the Federal Clean Air Act. After EPC had filed the suit and moved for judgment, the required permit was obtained and a settlement agreement was entered into calling for payment of civil penalties, as well as reimbursement of EPC costs incurred during this action.

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June 18, 1998

ENVIRONMENTAL PROTECTION COMMISSION  
OF HILLSBOROUGH COUNTY  
POLLUTION RECOVERY TRUST FUND

Fund Balance June 18, 1998

\$836,375

Encumbrances Against Fund Balance:

Cypress Head Swamp	10,057
Carmichael Dump	30,000
Wetland Surveys	1,781
Lake Chapman Sea.	2,487
Seagrass Study/Sheriff	23,500
Art. Reef FY98	18,221
Clayton Lake	22,093
Mosi Restoration	55,500
Oakview Utilities	75,000
Riverview Civic Center	40,000
Thalasssea Study	56,000
McKay Bay	15,000
Hughes Hard Chrome	8,794
Earth Day 98	2,500
Seagrass Recovery	37,444
HCC/USF	49,520
American Lung Assoc.	10,000
Asbestos Abatement	5,000

Total of Encumbrances

462,896

Fund Balance Available June 18, 1998

\$373,479



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ENVIRONMENTAL PROTECTION COMMISSION  
OF HILLSBOROUGH COUNTY  
ANALYSIS OF GARDINIER SETTLEMENT TRUST FUND  
AS OF JUNE 18, 1998

Fund Balance as of 10/01/97	\$1,424,588
Interest Accrued FY98	56,000
Disbursements FY98	7,560

Fund Balance	\$1,473,028
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Encumbrances Against Fund Balance:

Alafia River, Add. (SWIM/DEP)	8,948	
McKay Bay Restoration (COT)	50,000	
Cockroach Bay Exotic Con. (HCC)	8,618	
Alafia River/Wolf Branch	300,000	
Ballast Point Seawall Phase II	25,000	
Audubon Society Riverview CC	50,000	
Oakview Utilities	50,000	
Port Redwing	300,000	
Davis Tract	200,000	
Total of Encumbrances		992,564

Fund Balance Available June 18, 1998	\$	480,464
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## AGENDA ITEM COVER SHEET

**Date:** June 25, 1998

**Agenda Item:** Settlement of Martin Brothers Case

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### Description/Summary:

As you may recall, the Martin Brothers case is a long standing and controversial one. EPC's interest was in ensuring that the 10.54 acres of wetlands, lost by virtue of the contractor's excavations on the Martin Brother's property, was mitigated for. Difficulty arose because the contractor became insolvent, the parties (Pinellas County, KBH and the Martins) were embroiled in several layers of litigation, and the mitigation plan that had been agreed to (by Pinellas, KBH, Hillsborough, EPC and DEP) was no longer possible.

Hillsborough County was presented with the problem of the potentially dangerous condition of the Martin Brothers lands as left following the excavation work.

EPC and the County were directed to pursue enforcement to obtain the mitigation and to secure or otherwise restore the lands. Following issuance of a Notice of Intent to Initiate Enforcement, Pinellas County and the other parties engaged in multiple meetings to find an alternative. With the efforts of an able mediator, we have developed a proposed settlement that is acceptable to all parties - **a global settlement of all issues and voluntary dismissal of all litigation.**

### Attachments:

Copy and explanation of the draft settlement will be submitted separately.

### Commission Action Recommended:

EPC: Accept the proposed settlement and included mitigation plan as resolution of its concerns regarding the 10.54 acres lost on the Martin Brothers property, and as complete resolution of the mitigation requirements of the 1987 Memorandum of Agreement.

BOCC: Accept the proposed settlement and included restoration and fencing as resolution of concerns about the dangerous condition of the property, and as complete resolution of the restoration requirements of the 1987 Memorandum of Agreement.

### Commission Action Taken:

