

BOARD OF COUNTY COMMISSIONERS

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Hillsborough County
Florida

MEMORANDUM

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

Daniel A. Kleman, County Administrator

REC'D

AUG 10 1998

ENV. PROT. COMM
OF H.C.

To: Roger Stewart, EPC
From: Jan Platt, County Commissioner
Subject: Agenda Request
Date: August 6, 1998

Please place Denise Layne on EPC's agenda to address wetland/upland mitigation issues. Thank you.

JKP/cl

MONTHLY ACTIVITIES REPORT
AIR MANAGEMENT DIVISION
JULY 1998

A.	Public Outreach/Education Assistance:		<u>1229</u>
B.	Industrial Air Pollution Permitting		
	1. Permit Applications Received (Counted by Number of Fees Received):		
	a. Operating:		<u>4</u>
	b. Construction:		<u>1</u>
	c. Amendments:		<u>1</u>
	d. Transfers/Extensions:		<u>0</u>
	2. Delegated Permits Issued by EPC and Non-delegated Permits Recommended to DEP for Approval (¹ Counted by Number of Fees Collected - ² Except for Title V Facilities where it is Counted by Number of Emission Units affected by the Applicant's Request):		
	a. Operating ¹ :		<u>3</u>
	b. Construction ¹ :		<u>9</u>
	c. Amendments ¹ :		<u>0</u>
	d. Transfers/Extensions ¹ :		<u>0</u>
	e. Title V Operating ² :		<u>6</u>
	f. Permit Determinations ² :		<u>6</u>
	3. Intent to Deny Permit Issued		<u>0</u>
	4. General Permits		<u>0</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>3</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>\$1,600.00</u>		
	<u>Organization Name</u>	<u>Violation</u>	<u>Amount</u>
	a. Granite Construction	Open Burn	\$1,500.00
	b. Richard Bray	Criminal Asbestos Dumping	\$100.00

D.	Inspections:	
1.	Industrial Facilities:	<u>10</u>
2.	Air Toxics Facilities:	
	a. Asbestos Emitters	<u>3</u>
	b. Area Sources (i.e. Drycleaners, Chrome Platers, etc...)	<u>20</u>
	c. Major Sources	<u>0</u>
3.	Asbestos Demolition/Renovation Projects:	<u>23</u>
4.	Gasoline Retailers:	
	a. On-Site Inspections	<u>0</u>
	b. Self Inspections	<u>79</u>
5.	Auto Repair Facilities:	
	a. On-Site Inspections	<u>0</u>
	b. Self Inspections	<u>2</u>
6.	Retail Auto Dealers:	
	a. On-Site Inspections	<u>0</u>
	b. Self Inspections	<u>2</u>
7.	Automotive Parts Stores:	
	a. On-Site Inspections	<u>0</u>
	b. Self Inspections	<u>0</u>
8.	Fleet Operators:	
	a. On-Site Inspections	<u>0</u>
	b. Self Inspections	<u>0</u>
9.	CFC Facilities:	
	a. On-Site Inspections	<u>0</u>
	b. Self Inspections	<u>0</u>
E.	Open Burning Permits Issued:	<u>2</u>
F.	Number of DOF Permits Monitored:	<u>246</u>
G.	Total Citizen Complaints Received:	<u>46</u>
H.	Total Citizen Complaints Investigated:	<u>43</u>
I.	Noise Sources Monitored:	<u>9</u>
J.	Air Program's Input to DRI's:	<u>3</u>
K.	Test Reports Reviewed:	<u>15</u>
L.	Compliance:	
	1. Warning Notices Issued:	<u>18</u>
	2. Warning Notices Resolved:	<u>27</u>
	3. Advisory Letters Issued:	<u>11</u>
M.	AOR's Reviewed	<u>35</u>

FEES COLLECTED FOR AIR MANAGEMENT DIVISION
JULY

	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>\$ 960.00</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>\$ 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>\$5,000.00</u>
(c) Delegated General Permit	<u>\$ -0-</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>\$4,255.00</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>\$290.00</u>
(b) renovation greater than 1000 linear feet or 1000 sq ft	<u>\$400.00</u>
8. Open burning authorization	<u>\$850.00</u>
9. Enforcement Costs	<u>\$674.07</u>

ASSESSMENT SECTION

A. EPC Wetlands Reviews		TOTALS
1.	Wetland Delineations	
a.	Wetland Delineations (\$100)	28
b.	Wetland Delineation Dispute	0
c.	Wetland Line Survey Reviews	23
d.	Additional Footage Fees	\$958.08
2.	Misc. Activities in Wetlands (\$0, \$50 or \$80 as applicable)	
a.	Nuisance Vegetation	15
b.	Other	10
3.	Impact/Mitigation Proposal (\$645)	8
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)	28
2.	Wastewater Treatment Plants (FDEP)	27
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.	DRI Annual Report	2
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	1
b.	Annual Review/Inspection	0
4.	Rezoning	
a.	Reviews (\$70)	20
b.	Hearings	0
c.	Hearing Prep (hours)	0
5.	Site Development/Commercial (\$300)	
a.	Preliminary	13
b.	Construction	18
6.	Subdivision	
a.	Preliminary Plat (\$140)	7
b.	Master Plan (\$550)	0
c.	Construction Plans (\$250)	17
d.	Final Plat (\$90)	9
e.	Waiver of Regulations (\$100)	0
f.	Platted, No-Improvements (\$100)	5
g.	Minor - Certified Parcel (\$100)	7
7.	As-Builts	6

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)	20.25
b.	Meetings/Reports	2
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)	73
2.	Other Meetings	69
3.	Telephone conferences	656
4.	Presentations	0
5.	Correspondence	196
6.	Correspondence Review (hours)	19
7.	Special Projects (hours)	19
8.	On-site visits	74
9.	Appeals	0

ADMINISTRATIVE ENFORCEMENT/ENF. COORDINATOR

A. New Cases Received	3
B. Activities	
1. Ongoing Cases	
a. Active	54
b. Legal	3
c. Tracking	30
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	3
2. Criminal Cases Closed	0
3. Cases Referred to Legal Dept.	0
D. Contributions to Pollution Recovery	\$1,200.00
E. Enforcement Costs Collected	\$438.39

INVESTIGATIONS/COMPLIANCE SECTION

A. Complaints

1. Received	67
2. Compliance Inspections	70
3. Closed	51

B. Warning Notices

1. Issued	12
2. Return Inspections	57
3. Closed	18

C. Mitigation

1. Compliance/Monitoring Reviews	32
2. Compliance Inspections	20

D. Other Activities

1. Case Meetings	2
2. Other Meetings	44
3. Telephone conferences	448
4. File Reviews	21
5. Cases Referred to Enforcement Coordinator	3
6. Letters	55

ADMINISTRATIVE/TECHNICAL SECTIONS

A. Soil Scientist

1. Case Reviews	4
2. Field Soil Investigations	4
3. Soil Investigation Notes/Reports	4
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	2
2. Unscheduled Reviews	1
3. Telephone Assistance	1612
4. Incoming Projects	150
5. Additional Info/Resubmittals and/or Revisions	5/31
6. Data Entry/Letters	315/270

ENGINEERING STAFF

1. Meetings	69
2. Reviews	34
3. Aerial Reviews	15
4. Telephone Inquiries	50
5. Walk-Ins / Field Investigations	3

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



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TELEPHONE (813) 272 - 5530


WASTE MANAGEMENT DIVISION
TELEPHONE (813) 272 - 5788

WETLANDS MANAGEMENT DIVISION
TELEPHONE (813) 272 - 7104

EXECUTIVE DIRECTOR
ROGER P. STEWART

MEMORANDUM

DATE: August 12, 1998

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

FROM: Shanna Lawson, Clerk III, Waste Management Division through Sheila Luce, Enforcement/Administration, Waste Management Division

SUBJECT: WASTE MANAGEMENT'S JULY AGENDA BACKUP INFORMATION

The following is a summary of activities for the month of July, 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	7
2.	Ongoing administrative cases	
	a. Pending	13
	b. Active	35
	c. Legal	14
	d. Tracking Compliance (Admin.)	12
	e. Inactive/Referred cases	25
	f. Criminal compliance tracking	22
3.	NOI's issued	1
4.	Citations issued	3
5.	Consent Orders signed	1
6.	Civil contrib. to the Pollution Rec. Fund	\$300.00

July Agenda Backup
Waste Management Div.
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7. Criminal contrib. to the Pollution Rec. Fund	\$0.00
8. Enforcement costs collected	\$1309.35
9. Cases referred to legal	0
10. Cases closed	2

B. Solid and Hazardous Waste

1. Permits (Received/Reviewed)	02/05
2. EPC Authorization For Facilities Not Requiring DEP Permit	0/0
3. Other permits and Reports	
a. County Permits	0/0
b. *Reports	58/44

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

4. Inspections (total)	309
a. Complaint	44
b. Compliance/reinspections	56
c. Facility Compliance	5
d. Small Quantity Generator	204
5. Enforcement	
a. Complaints Received/Closed	40/40
b. Warning Notice Issued/Closed	4/3
c. Compliance Letters	30
d. Letters of Agreement	0
e. DEP Referrals	0
6. Pamphlets, Rules and Material Distributed	458

C. Underground Storage Tank - Cleanup Department

1. Inspections:	
a. Investigation	13
b. SUPER Act	0
2. Reports Received/Reviewed	38/54
a. Contamination Assessment (CARs)	10/14
b. Initial Remedial Action (IRA)	06/13

July Agenda Backup
Waste Management Div.
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c. Remedial Action Plans (RAPs)	05/02
d. Site Rehabilitation Completion (SRCs)	01/00
e. Others	16/25
3. Reimbursement Applications	
a. Received	0
b. Reviewed	0
4. State Cleanup Site Activities	
a. Active Sites	5
b. Funds Disbursed	\$0.00

D. Underground Storage Tank Compliance Department

1. Inspections	
a. UST Compliance	39
b. AST Compliance	33
c. UST Installation	14
d. AST Installation	7
e. UST Closure	11
f. AST Closure	0
g. *Other Inspections	62

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

2. Installation Plans Reviewed	24
3. Closure Plans & Reports Received/Reviewed	14/16
4. Enforcement	
a. Noncompliance Letters	35
b. Warning Notices (issued/closed)	5/0
c. Cases referred for Enforcement	3
d. Complaints received/investigated	0
e. Complaints Referred	0
f. Cases Referred to DEP	0
5. FPLIRP Checklists Completed	2
6. Cleanup Notification Letters Issued	2
7. Public Assistance	200+
<u>E. Record Reviews</u>	56
<u>F. Public Information Projects</u>	0

**ACTIVITIES REPORT
WATER MANAGEMENT DIVISION**

JULY, 1998

A. ENFORCEMENT

1. New Enforcement Cases Received:	<u>1</u>	
2. Enforcement Cases Closed:	<u>2</u>	
3. Enforcement Cases Outstanding:	<u>23</u>	
4. Enforcement Documents Issued:	<u>1</u>	
5. Warning Notices:	<u>25</u>	
a. Issued:	<u>17</u>	
b. Resolved:	<u>8</u>	
6. Recovered costs to the General Fund:	\$ <u>174.54</u>	
7. Contributions to the Pollution Recovery Fund:	\$ <u>2,800.00</u>	

<u>Case Name</u>	<u>Violation</u>	<u>Amount</u>
a. Country Road MHP	Failure to submit permit appl. in timely manner; failure to meet CO deadline to submit appl.	\$ 100.00
b. Croft's MHP	Improper operation & maintenance	\$ 500.00
c. Eastwood Estates MHP	Improper operation & maintenance	\$ 200.00
d. Silo Bend	Placing system into operation prior to EPC approval	\$2,000.00

B. PERMITTING - DOMESTIC

1. Permit Applications Received:	<u>34</u>	
a. Facility Permit:	<u>1</u>	
(i) Types I and II	<u>0</u>	
(ii) Type III	<u>1</u>	
b. Collection Systems-General:	<u>18</u>	
c. Collection Systems-Dry Line/Wet Line:	<u>15</u>	
d. Residuals Disposal:	<u>0</u>	
2. Permit Applications Approved:	<u>35</u>	
a. Facility Permit:	<u>1</u>	
b. Collection Systems-General:	<u>16</u>	
c. Collection Systems-Dry Line/Wet Line:	<u>18</u>	
d. Residuals Disposal:	<u>0</u>	
3. Permit Applications Recommended for Disapproval:	<u>0</u>	
a. Facility Permit:	<u>0</u>	
b. Collection Systems-General:	<u>0</u>	
c. Collection Systems-Dry Line/Wet Line:	<u>0</u>	
d. Residuals Disposal:	<u>0</u>	
4. Permit Applications (Non-Delegated) Recommended for Approval:	<u>0</u>	
5. Permits Withdrawn:	<u>1</u>	

6. Permit Applications Outstanding:	41
a. Facility Permit:	17
b. Collection Systems-General:	9
c. Collection Systems-Dry Line/Wet Line:	15
d. Residuals Disposal:	0
C. INSPECTIONS - DOMESTIC	89
1. Compliance Evaluation:	8
a. Inspection (CEI):	1
b. Sampling inspection (CSI):	4
c. Toxics Sampling Inspection (XSI):	0
d. Performance Audit Inspection (PAI):	3
2. Reconnaissance:	57
a. Inspection (RI):	15
b. Sample Inspection (SRI):	1
c. Complaint Inspection (CRI):	27
d. Enforcement Inspection (ERI):	14
3. Special:	24
a. Diagnostic Inspection (DI):	0
b. Residual Site Inspection (RSI):	0
c. Preconstruction Inspection (PCI):	3
d. Post Construction Inspection (XCI):	21
D. PERMITTING - INDUSTRIAL	
1. Permit Applications Received:	3
a. Facility Permit:	3
(i) Types I and II	3
(ii) Type III with groundwater monitoring	0
(iii) Type III w/o groundwater monitoring	0
b. General Permit:	0
c. Preliminary Design Report:	0
(i) Types I and II	0
(ii) Type III with groundwater monitoring	0
(iii) Type III w/o groundwater monitoring	0
2. Permits Recommended to DEP for Approval:	2
3. Permit Applications Outstanding:	33
a. Facility Permits:	33
b. General Permits:	0
E. INSPECTIONS - INDUSTRIAL	33
1. Compliance Evaluation:	10
a. Inspection (CEI):	7
b. Sampling Inspection (CSI):	2
c. Toxics Sampling Inspection (XSI):	0
d. Performance Audit Inspection (PAI):	1

2. Reconnaissance:	<u>23</u>
a. Inspection (RI):	<u>12</u>
b. Sample inspection (SRI):	<u>0</u>
c. Complaint Inspection (CRI):	<u>9</u>
d. Enforcement Reconnaissance (ERI):	<u>2</u>
F. CITIZEN COMPLAINTS	
1. Domestic:	<u>22</u>
a. Received:	<u>11</u>
b. Closed:	<u>11</u>
2. Industrial:	<u>8</u>
a. Received:	<u>4</u>
b. Closed:	<u>4</u>
3. Water Pollution:	<u>19</u>
a. Received:	<u>11</u>
b. Closed:	<u>8</u>
G. RECORD REVIEWS	
1. Permitting:	<u>5</u>
2. Enforcement:	<u>2</u>
H. ENVIRONMENTAL SAMPLES ANALYSED FOR:	
1. Air Division:	<u>102</u>
2. Waste Division:	<u>1</u>
3. Water Division:	<u>122</u>
4. Wetlands Division:	<u>2</u>
I. SPECIAL PROJECT REVIEWS	
1. DRI's:	<u>3</u>
2. Permitting:	<u>0</u>
3. Enforcement:	<u>0</u>
4. Other:	<u>0</u>
J. WATER QUALITY MONITORING SPECIAL PROJECTS	
1. Data Review	<u>0</u>
2. Special Sampling	<u>0</u>
3. Biomonitoring/Toxicity Reviews (DW)	<u>1</u>
4. Biomonitoring/Toxicity Reviews (IW)	<u>0</u>
5. Other	<u>0</u>
K. TAMPA PORT AUTHORITY/DEP DREDGE & FILL	<u>17</u>
AK07.000	

LEGAL DEPARTMENT MONTHLY REPORT
August 12, 1998

A. ADMINISTRATIVE CASES

NEW CASES [0]

EXISTING CASES [8]

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*).

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. Staff is also considering an alternate plan for remedial work which was presented by Counsel for Respondent, Bridge during a June 1998 meeting.

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*).

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 has worked with SWFWMD and during June, 1998 an EPC Director's Authorization was issued which is anticipated to address the outstanding issues.

RESOLVED CASES [2]

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, the parties and the Martins have worked out the mitigation and restoration details, have signed a Mitigation Agreement, and have settled all outstanding issues between them.

(resolved administrative cases, continued)

EPC v. DEP: (Florida Power & Light, Orimulsion conversion project.) EPC 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. Additional evidentiary 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. On June 24, the Governor and Cabinet again denied the certification. FP&L did not appeal the decision within the time provided - certification denied.

B. LITIGATION CASES

NEW CASES [2]

Kentucky Central Life v. EPC, et al.: First mortgage holder's attempted foreclosure of EPC's interest in certain real property by virtue of suit brought by EPC against property owner to compel closure of underground storage tanks. Tanks have been properly closed by agreement between EPC and Receiver. (see resolved Litigation Cases) EPC's suit v. property owner has been voluntarily dismissed following cooperative discovery of Defendant Corporation's assets (lack thereof). In response to Kentucky Central Amended Complaint filed herein, EPC has filed a disclaimer of interest. Kentucky Central's claim against the property is superior to EPC's and is estimated at 3 -4 times market value.

Florida General Corp. v EPC, et al : First mortgage holder's attempted foreclosure of EPC's interest in certain real property held by virtue of a judgment lien against the property owner Alvin P. Coulter. EPC legal staff is reviewing the matter and preparing a response.

EXISTING CASES [13]

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 followed 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 an contamination assessment of the site and is reviewing a proposed settlement agreement addressing payment of penalty and costs.

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 have been reviewed by EPC and our comments forwarded to DEP.

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. Hearing on EPC's motion for Judgment has been continued until late August

RESOLVED CASES [3]

Hanna v. EPC: Property owner 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. In response to the complaint, EPC has filed a Motion to Dismiss. After hearing in mid-August, EPC’s motion was granted and the case dismissed.

Kentucky Central Life v. EPC, et al.: First Mortgage holder’s foreclosure of EPC’s interest in certain real property by virtue of suit brought by EPC against property owner to compel closure of underground storage tanks (*see Moore Properties*). Tanks have been properly closed by agreement between EPC and Receiver appointed by the court. In response to Kentucky Central’s Amended Complaint filed herein, EPC has filed a disclaimer of interest. Kentucky Central’s claim against the property is superior to EPC’s and is estimated at 3 -4 times market value.

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 (*see Kentucky Central v. EPC*), 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. UST’s have now been properly closed by the receiver. EPC’s suit v. property owner has been voluntarily dismissed following cooperative discovery of Defendant Corporation’s assets (lack thereof).

COMMISSION

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



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

AIR MANAGEMENT DIVISION
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WASTE MANAGEMENT DIVISION
TELEPHONE (813) 272-5788

WETLANDS MANAGEMENT DIVISION
TELEPHONE (813) 272-7104

EXECUTIVE DIRECTOR

ROGER P. STEWART

AUGUST 12, 1998

ENVIRONMENTAL PROTECTION COMMISSION
OF HILLSBOROUGH COUNTY
POLLUTION RECOVERY TRUST FUND

Fund Balance August 01, 1998 \$740,887

Encumbrances Against Fund Balance:

Cypress Head Swamp	8,967
Carmichael Dump	30,000
Wetland Surveys	1,781
Lake Chapman Sea.	2,487
Seagrass Study/Sheriff	23,500
Art. Reef FY98	11,267
Clayton Lake	8,210
Mosi Restoration	463
Oakview Utilities	75,000
Riverview Civic Center	40,000
Thalassea Study	41,158
McKay Bay	15,000
Hughes Hard Chrome	5,420
Seagrass Recovery	10,800
American Lung Assoc.	10,000
Asbestos Abatement	5,000
Brooker Creek	8,000
Adopt A Pond	50,000
River Crest Restoration	15,000
Epps Park Restoration	10,000

Total of Encumbrances 372,053

Fund Balance Available August 01, 1998 \$368,834

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ENVIRONMENTAL PROTECTION COMMISSION
OF HILLSBOROUGH COUNTY
ANALYSIS OF GARDINIER SETTLEMENT TRUST FUND
AS OF AUGUST 01, 1998

Fund Balance as of 10/01/97	\$1,424,588
Interest Accrued FY98	68,927
Disbursements FY98	7,560
Fund Balance	\$1,485,955

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 August 01, 1998 \$ 493,391

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TELEPHONE (813) 272-7104

MEMORANDUM

DATE: August 20, 1998

TO: Environmental Protection Commission

THROUGH: Roger Stewart, Executive Director

FROM: Hooshang Boostani, Director, Waste Management Division *HB*

**SUBJECT: CONTRACTOR PROCUREMENT FOR EPC LEAD PETROLEUM
CLEANUP SITES**

Pursuant to our obligation under General Contract 535 with the Florida Department of Environmental Protection, we have completed the contractor procurement process for selection of firms to perform work at EPC lead petroleum cleanup sites. This was done in accordance to Hillsborough County's "Procedures for Contracting for Professional Services covered by the Consultants Competitive Negotiation Act." with assistance from Ms. Christa Speth, Contracts Manager of the Hillsborough County Purchasing Department. The three firms selected are:

HSW Engineering, Incorporated
Arcadis Geraghty & Miller, Incorporated
HSA Engineers and Scientists

Attached is a tabulation sheet indicating these firms as the three finalists and a copy of contract. It's requested that authorization be granted for Roger Stewart to sign the contracts on behalf of the Environmental Protection Commission.

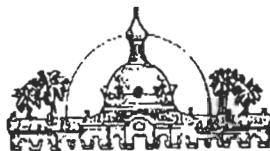
HILLSBOROUGH COUNTY

FLORIDA

Office of the County Administrator
Daniel A. Klemm

BOARD OF COUNTY COMMISSIONERS

Dottie Berger
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Chris Harr
Jim Norman
Jan Platt
Thomas Scott
Ed Turanchik



Deputy County Administrator
Patricia Bean

Assistant County Administrators
Edwin Hunzeker
Jimmie Keel

MEMORANDUM

DATE: August 11, 1998

TO: Mike McKelvey, Environmental Protection Comm\Waste Management Section

FROM: Christa Speth, Contract Manager, Purchasing Department

SUBJECT: RPS 98-1801, Petroleum Contamination Cleanup

The final ranking of the top three firms for the subject project resulted in a tie for the third ranked position as outlined on attachment 1. As we had previously discussed, the procedure for tiebreakers is outlined in the Hillsborough County "Procedures for Contracting for Professional Services covered by the Consultants Competitive Negotiation Act". The first tiebreaker is to use the firm's individual volume of work with Hillsborough County. The firm with the lowest dollar value of volume of work will be considered the top-ranked firm. The volume of work was determined by the amount of payments made to a firm as provided by the Clerk's Office.

The volume of work for the tied firms are:

HSA ENVIRONMENTAL	\$20,536.16
GANNETT FLEMING	\$51,706.56

This first step breaks the tie and requires no further application of the tiebreaker procedures. HSA Environmental, Inc is the third ranked firm.

I have also attached a copy of the summary score sheets for you to include with your presentation at the EPC meeting. Please contact me at 6-2428 if you have any questions or need any additional information.

Enclosure

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Post Office Box 1110 · Tampa, Florida 33601
An Affirmative Action/Equal Opportunity Employer

**PROFESSIONAL CONSULTANT SELECTION
CLEANUP OF ELIGIBLE PETROLEUM CONTAMINATION SITES
PARTICIPATING IN THE STATE OF FLORIDA'S EDI,
PLIRP AND ARTP PROGRAMS
RPS NO. PS-98-1801
RANKING AS OF 8-4-98
LIST OF RESPONDEES**

	Initial Ranking	Oral Presentation
1. HSW ENGINEERING, INC.	94.20	25.60
2. ARCADIS GERAGHTY & MILLER, INC. (TIE FOR 3RD RANKED)	93.80	24.40
3. HSA ENGINEERS & SCIENTISTS	94	24.00
3. GANNETT FLEMING ENGINEERS AND PLANNERS	94	24.00
5. CHASTAIN-SKILLMAN, INC.	95.20	22.60
6. METCALF & EDDY, INC.	93	
7. ENVIRONMENTAL CONSULTING & TECHNOLOGY, INC.	93	
8. ENGINEERING & APPLIED SCIENCE, INC.	93	
9. GLE ASSOCIATES, INC.	92.1	
10. LAW ENGINEERING AND ENVIRONMENTAL SERVICES, INC.	91.7	
11. BEM SYSTEMS, INC.	90.60	
12. BARNES, FERLAND AND ASSOCIATES, INC.	90.60	
13. ENGINEERING DESIGN TECHNOLOGIES CORP.	89	
14. WRS INFRASTRUCTURE & ENVIRONMENT, INC.	88.7	
15. TERRA ENVIRONMENTAL SERVICES, INC.	87.60	
16. HARDING LAWSON ASSOCIATES (HLA)	87.3	
17. WATER EQUIPMENT SERVICES (WES), INC.	85.2	

CONSULTANT EVALUATION SUMMARY

FIRM: HSW Engineering Inc.

PROJECT: RPS NO. PS-98-1801

EVALUATION CRITERIA	MAX PTS	WTD MATING	McKeehey	Schifke	Gaudburg	Bood	Juntunen	TOTAL	AVG SCORE
1. Approach to project and ability to furnish required services	20	4	4	4	4	4	4	80.00	16.00
2. Ability of professional personnel	15	3	5	4	5	4	4	65.00	13.70
3. Successful experience with similar projects	20	4	5	5	3	3	4	80.00	16.00
4. Willingness to meet schedule and budget requirements	25	5	4	4	4	4	4	100.00	20.00
5. Recent, current and projected workload	5	1	4	4	4	3	5	20.00	4.00
SUBTOTAL	85	10	75.00	72.00	67.00	63.00	89.00	345.00	69.20
6. Effect of project team location on project response	10	2					5	10	10.00
7. a. Past Performance Evaluation Points	5								2.00
b. ED/AA Participation	4								3.00
c. MBE Bonus Points	6								5.00
d. Volume of Work	5								5.00
TOTAL	115								94.20

ORAL PRESENTATIONS

EVALUATION CRITERIA	MAX PTS	McKeehey	Schifke	GLICKSBURG	BLOOD	JUNTUNEN	TOTAL	AVG SCORE
1. Understanding of the project and program requirements	10	9.00	10.00	8.00	9.00	9.00	45.00	9.00
2. Approach to the project and methods used to plan, design and administer the project	10	9.00	9.00	8.00	9.00	8.00	43.00	8.60
3. Ability to provide the required services within schedule & budget	10	9.00	9.00	8.00	8.00	6.00	40.00	8.00
TOTAL	30	27.00	28.00	24.00	26.00	23.00	128.00	25.60

CONSULTANT EVALUATION SUMMARY

FIRM: Arcadia, Geraghty & Miller, Inc
 PROJECT: CLEAN UP PETROLEUM SITES
 RPS NO. PS-98-1801

EVALUATION CRITERIA	MAX PTS	WTD RATING	EVALUATOR								TOTAL	AVG SCORE	
			McKeevey	Schiffner	Glucksburg	Blood	Jurkiewicz	TOTAL	AVG SCORE				
1. Approach to project and ability to furnish required services	20	4	4	4	4	3	3	4	5	20.00	80.00	16.00	
2. Ability of professional personnel	15	3	4	4	5	4	4	5	5	15.00	66.00	13.20	
3. Successful experience with similar projects	20	4	5	20.00	5	20.00	3	12.00	3	12.00	20.00	18.90	
4. Willingness to meet schedule and budget requirements	25	5	4	20.00	4	20.00	4	20.00	4	20.00	100.00	20.00	
5. Recent, current and projected workload	5	1	4	4.00	4	4.00	3	3.00	4	4.00	19.00	3.80	
SUBTOTAL	85	2		72.00		72.00		67.00		68.00	79.00	349.00	89.80
6. Effect of project team location on project response	10	2							5	10.00			10.00
7. a. Past Performance Evaluation Points	5												1.00
b. EO/AA Participation	4												3.00
c. HSE Bonus Points	8												5.00
d. Volume of Work	5												5.00
TOTAL	115												93.80

ORAL PRESENTATIONS

EVALUATION CRITERIA	MAX PTS	WTD RATING	EVALUATOR								TOTAL	AVG SCORE	
			McKeevey	Schiffner	Glucksburg	Blood	Jurkiewicz	TOTAL	AVG SCORE				
1. Understanding of the project and program requirements	10			9.00		9.00		7.00		8.00	9.00	42.00	8.40
2. Approach to the project and methods used to plan, design and administer the project	10			9.00		8.00		8.00		8.00	8.00	42.00	8.40
3. Ability to provide the required services within schedule & budget	10			8.00		7.00		7.00		7.00	9.00	38.00	7.60
TOTAL	30			26.00		23.00		22.00		23.00	26.00	122.00	24.40

FIRM: HSA Environmental
 PROJECT: CLEAN UP PETROLEUM SITES
 PPS NO. PS-9B-1801

CONSULTANT EVALUATION SUMMARY

EVALUATION CRITERIA	MAX PTS	WTD RATING	MARKELVEY	SCHIFFER	GUICKSBURG	BLOOM	JUNTUNEN	TOTAL	AVG SCORE
1. Approach to project and ability to furnish required services	20	4	16.00	16.00	18.00	16.00	16.00	80.00	16.00
2. Ability of professional personnel	15	3	12.00	12.00	15.00	9.00	15.00	63.00	12.60
3. Successful experience with similar projects	20	4	16.00	16.00	12.00	12.00	19.00	72.00	14.40
4. Willingness to meet schedule and budget requirements	25	5	20.00	20.00	20.00	20.00	25.00	105.00	21.00
5. Record, current and projected workload	8	1	4.00	4.00	4.00	3.00	5.00	20.00	4.00
SUBTOTAL	85	2	68.00	68.00	67.00	60.00	77.00	340.00	88.00
6. Effect of project team location on project response	10	2					10.00		10.00
7. a. Past Performance Evaluation Points	5								2.00
b. EO/AA Participation	4								4.00
c. MBE Bonus Points	8								5.00
d. Volume of Work	5								5.00
TOTAL	115								94.00

ORAL PRESENTATIONS

EVALUATION CRITERIA	MAX PTS	WTD RATING	MARKELVEY	SCHIFFER	GUICKSBURG	BLOOM	JUNTUNEN	TOTAL	AVG SCORE
1. Understanding of the project and program requirements	10		7.00	8.00	8.00	9.00	8.00	40.00	8.00
2. Approach to the project and methods used to plan, design and administer the project	10		7.00	8.00	9.00	8.00	8.00	40.00	8.00
3. Ability to provide the required services within schedule & budget	20		8.00	8.00	9.00	7.00	8.00	40.00	8.00
TOTAL	30		22.00	24.00	26.00	24.00	24.00	120.00	24.00

CONSULTANT EVALUATION SUMMARY

UM: Gannett Fleming Engineering & Planning

SUBJECT: RPS NO. PS-98-1801

EVALUATION CRITERIA	MAX PTS	WTD. NATURE	McKELVEY	SCHIFFER	GLITSCHBURG	BLOOD	JUNTUNEN	TOTAL	AVG. SCORE
Approach to project and ability to furnish required services	20	4	4	4	4	4	4	84.00	16.80
Ability of professional personnel	15	3	4	4	5	4	5	86.00	13.20
Successful experience with similar projects	20	4	5	4	3	3	4	76.00	15.20
Willingness to meet schedule and budget requirements	25	5	4	4	4	4	5	105.00	21.00
Recent, current and projected workload	5	1	4	4	4	3	4	19.00	3.80
SUBTOTAL	85	2	72.00	88.00	87.00	83.00	80.00	350.00	70.00
Effect of project team location on project responses	10						4	8.00	8.00
e. Part Performance Evaluation Points	5								2.00
b. EO/AA Participation	4								4.00
a. MBE Bonus Points	4								5.00
d. Volume of Work	5								5.00
TOTAL	115								94.00

ORAL PRESENTATIONS

EVALUATION CRITERIA	MAX PTS	McKELVEY	SCHIFFER	GLITSCHBURG	BLOOD	JUNTUNEN	TOTAL	AVG. SCORE
1. Understanding of the project and program requirements	10	3.00	9.00	7.00	8.00	3.00	40.00	8.00
2. Approach to the project and methods used to plan, design and administer the project	10	8.00	9.00	8.00	7.00	8.00	40.00	8.00
3. Ability to provide the required services within schedule & budget	10	9.00	8.00	8.00	6.00	9.00	40.00	8.00
TOTAL	30	24.00	26.00	23.00	21.00	25.00	130.00	14.00

CONSULTANT EVALUATION SUMMARY

FIRM: Chastain-Stilmer, Inc
 PROJECT: CLEAN UP PETROLEUM SITES
 RPS NO. PS-98-1801

EVALUATION CRITERIA	MAX PTS	WTD RATING	McKelvey	Schiff	Glucksborg	Blood	Jurkeman	TOTAL	AVG SCORE
1. Approach to project and ability to furnish required services	20	4	12.00	15.00	18.00	20.00	15.00	80.00	16.00
2. Ability of professional personnel	15	3	12.00	15.00	15.00	12.00	15.00	69.00	13.80
3. Successful experience with similar projects	20	4	20.00	18.00	12.00	12.00	20.00	80.00	16.00
4. Willingness to meet schedule and budget requirements	25	5	20.00	20.00	20.00	20.00	20.00	100.00	20.00
5. Recent, current and projected workload	5	1	3.00	3.00	4.00	3.00	4.00	17.00	3.40
SUBTOTAL	85		67.00	70.00	67.00	67.00	75.00	346.00	69.20
6. Effect of project team location on project responses	10	2					10.00		10.00
7. a. Past Performance Evaluation Points	5								2.00
b. EOLAA Participation	4								4.00
c. MBE Bonus Points	6								5.00
d. Volume of Work	5								5.00
TOTAL	116								95.20

ORAL PRESENTATIONS

EVALUATION CRITERIA	MAX PTS	MANDELVEY	SCHIFFER	GLUCKSBURG	BLOOD	JURKEMAN	TOTAL	AVG SCORE
1. Understanding of the project and program requirements	10	7.00	8.00	7.00	8.00	8.00	38.00	7.60
2. Approach to the project and methods used to plan, design and schedule the project	10	6.00	8.00	8.00	8.00	8.00	38.00	7.60
3. Ability to provide the required services within schedule & budget	10	8.00	8.00	7.00	7.00	7.00	37.00	7.40
TOTAL	30	21.00	24.00	22.00	23.00	23.00	117.00	22.60

HILLSBOROUGH COUNTY
Office of the County Administrator

ADMINISTRATIVE DIRECTIVE

SUBJECT: PROCEDURES FOR CONTRACTING FOR PROFESSIONAL SERVICES COVERED BY CONSULTANT'S COMPETITIVE NEGOTIATION ACT **SECTION:** _____
PAGE: 1 of 3

Effective Date: _____ **Supersedes:** Revision of 8-29-90
Issued Date: _____ **Page Number(s):** _____
Approval: _____ **Section Number:** _____
Approval Date: _____ **Issued:** _____

On May 18, 1988, the Board of County Commissioners adopted the "Policy on Contracting for Professional Services Covered by the Consultant's Competitive Negotiation Act" (CCNA), Section 8 of the Purchasing Manual, which gave responsibility for the development of selection procedures to the County Administrator.

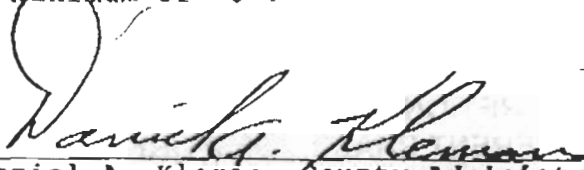
Since adoption of the original procedures in May, 1988 and adoption of the revised procedures in August 1990, staff of the Purchasing and Contracts Department has continued to review the Administrative Procedures to improve the process of selecting professional firms to provide services to the County. The following is a summary of current revisions to the procedures:

1. ORAL PRESENTATIONS

- For projects on which oral presentations are held, the initial ranking of firms will be determined by the ratings on the written response.
- The final ranking will be determined solely by the ratings from the oral presentations.
- The firm rated highest on oral presentations will be the top-ranked firm.

2. VOLUME OF WORK

- The volume of work shall be the amount of payments made to a firm, with the amounts provided by the Clerk's Office.
- The range of points will be a maximum of five (5) and a minimum of -0-.


Daniel A. Kleman, County Administrator

5-30-95
Date

EPC/HC CONTRACT #PS-98-1801
ENVIRONMENTAL PROTECTION COMMISSION OF HILLSBOROUGH COUNTY
AGREEMENT FOR CLEANUP OF ELIGIBLE PETROLEUM CONTAMINATION SITES
PARTICIPATING IN THE STATE OF FLORIDA'S EARLY DETECTION INCENTIVE
(EDI) , PETROLEUM LIABILITY INSURANCE RESTORATION (PLIRP), AND
ABANDONED TANK RESTORATION (ATRP) PROGRAMS

CONTRACTOR: HSW Engineering, Incorporated

SECTION I - DESCRIPTION OF PROJECT

The Environmental Protection Commission of Hillsborough County (EPC/HC) retains the **CONTRACTOR** to provide assessment and remediation services at eligible petroleum contaminated sites participating in the state's EDI, PLIRP, and ATRP programs, as outlined in EPC/HC Request for Professional Services (RPS) #PS-98-1801, and **CONTRACTOR'S** response thereto, incorporated herein by reference. Any terms and conditions of this contract which vary from those contained in the RPS or **CONTRACTOR's** response shall have precedence. All cleanup activities will be performed in accordance with the provisions of Chapter 62-770 and 62-771, Florida Administrative Code (F.A.C.), Petroleum Contamination Site Cleanup Criteria and Petroleum Contamination Site Priority Ranking Rule, respectively and where applicable, unless otherwise specified by the EPC/HC, the latest edition of the Florida Department of Environmental Protection's Petroleum Cleanup Pre-Approval Program Standard Operating Procedure (SOP).

Projects shall consist of the following as deemed necessary on a site by site basis: providing engineering design and construction oversight for petroleum product cleanup operations, source removal, site assessment, remedial action plans, risk assessments and other services, as specified by the EPC/HC, to effectuate the complete remediation of petroleum product contaminated sites. For each project, the **CONTRACTOR** shall submit a cost estimate worksheet to the EPC/HC. The worksheet must detail costs and subtasks needed to complete the project. The EPC/HC shall review the worksheet for completeness and negotiate with the **CONTRACTOR** the costs of completing the subtasks. At the completion of the negotiation process, the EPC/HC shall complete a Task Assignment sheet, attached hereto and made a part hereof as Attachment A, detailing the costs and work agreed upon. Any deviation from the Task Assignment sheet will require a change order. Change orders will be handled in the same manner as the Task Assignment sheets.

NO WORK IS GUARANTEED AS A RESULT OF THIS CONTRACT. ANY AND ALL WORK WILL BE AT THE DISCRETION OF THE EPC/HC. THE EPC/HC RESERVES THE RIGHT TO ASSIGN DIFFERENT PHASES OF WORK ON A SPECIFIC SITE TO A DIFFERENT CONTRACTOR. IN SUCH CASES, THE CONTRACTOR'S LIABILITY FOR ACCEPTING AND USING WORK DONE BY PREVIOUS CONTRACTORS WILL BE NEGOTIATED ON A SITE-SPECIFIC BASIS.

SECTION II - SCOPE OF SERVICE

The **CONTRACTOR** shall provide petroleum contamination site cleanup services on a task assignment basis, which may include any or all of the following described work elements:

A. Quality Assurance and Safety

Quality Assurance (QA)

Prior to conducting soil and/or groundwater sampling and analyses associated with this contract, the **CONTRACTOR** must have a Comprehensive Quality Assurance Plan, prepared in accordance with Chapter 62-160, F.A.C., reviewed and approved by the Florida Department of Environmental Protection (FDEP) Quality Assurance Section. A copy of the approved Comprehensive QA Plan must be filed with the EPC/HC.

Safety

The **CONTRACTOR** will be required to submit to the EPC/HC a site-specific safety plan for each project. The safety plans must be designed to protect the health and safety of local residents as well as **CONTRACTOR** personnel. All safety requirements must conform to the OSHA Guidelines for Hazardous Waste Operations, 29 CFR Part 1910.

As part of the site specific safety plan, the **CONTRACTOR** shall demonstrate safety precautions for all aspects of site assessment and cleanup activities including, but not limited to; soil excavation, well drilling, free product removal and tank removal/disposal. Appropriate circumstances for the use of safety equipment and procedures shall also be described.

The site specific safety plan shall include:

1. Identification and posting of emergency actions, including: Hospital, ambulances, poison control centers, fire departments and police/sheriff departments;
2. Identification of all pollutants and health hazards associated with petroleum products;
3. Identification of first aid and personnel safety equipment; and
4. site security precautions.

B. Source Removal (SR) and Limited Site Assessment (LSA)

The EPC/HC will assign work to the **CONTRACTOR** by Task Assignment. At the request of the EPC/HC, the **CONTRACTOR** shall immediately conduct any appropriate SR action in order to minimize the hazard of explosion, fire and public health threat and to prevent further contamination of adjacent soil and water. At sites where little information is available regarding the potential extent of contamination, the EPC/HC may request the **CONTRACTOR** conduct a LSA.

The LSA shall consist of a limited scope of work geared towards attaining a better understanding of site conditions. Additional work beyond the LSA may or may not be required.

C. Site Assessment Report (SAR), Remedial Action Plan (RAP) and Site Rehabilitation Levels (SRL)

Upon completion of a Site Assessment (SA), the **CONTRACTOR** shall submit for EPC/HC approval a SAR which describes the results of the SA and makes a recommendation for remediation. In the event that the information gathered during the SA indicates the need for additional assessment work, a summary [Data Summary Report (DSR)] of the SA activity and description of the additional work necessary to complete the assessment must be submitted in lieu of the SAR. The cost of the DSR must then be re-negotiated through a change order. The description for additional work shall be reviewed by the EPC/HC, and if approved, the **CONTRACTOR** shall negotiate the cost of doing said work in order to complete the SAR. Upon approval of the SAR, the EPC may require a remedial action plan (RAP) be developed. The RAP should describe the results of the SAR and the proposed process for achieving the cleanup of the contamination to specified levels.

The EPC/HC may require that alternate SRL be developed by the **CONTRACTOR** as an alternative to water cleanup standards set forth in Chapter 62-770, F.A.C., or to justify a proposal for "no further action" or "monitoring only". Development of SRL includes a risk assessment which conforms to the elements outlined in Chapter 62-770, F.A.C.

The **CONTRACTOR** will be expected to work with the EPC/HC in determining which sites are appropriate for alternate SRL.

Upon approval and at the direction of the EPC/HC, the **CONTRACTOR** shall implement the RAP including operation and maintenance of all equipment. Reporting requirements outlined in Chapter 62-770, F.A.C., will be adhered to unless the EPC/HC determines that a more frequent reporting period is necessary. Other responsibilities of the **CONTRACTOR** during remedial action include: acquiring all necessary permits and inspections; securing site access and obtaining easements; supplying performance specifications on all equipment; supplying all applicable vendor quotes; supervising all implementation activities associated with remedial action; and ensuring that all work is performed in compliance with the most current regulations and/or guidelines developed by the FDEP.

D. Engineering Design/Bidding Service/Construction Oversight/O&M

The scope of a remedial action task may be such that the **CONTRACTOR** is required by EPC/HC to develop a detailed engineering design and to provide construction oversight, bidding services and operation and maintenance for a particular project. These services may include:

Engineering Design

1. Additional investigation and studies to support design of unusual remediation technologies
2. Preliminary design
3. Final design including all plans and specifications necessary to bid construction

Bidding Service

1. Preparation of documents for the advertisement, evaluation and award of construction contracts
2. Planning and conducting pre-bid meetings
3. Tabulation, review, evaluation and recommendation of bid awards
4. Providing technical support as necessary

Construction Oversight

1. Planning and conducting pre-construction meetings
2. Review of technical documents, invoices and reports
3. Preparation of reports, safety plans, records, drawings and change orders
4. Conducting field inspections, surveys and environmental monitoring
5. Coordination of laboratory testing and data management

Operation & Maintenance (O&M) Assistance

1. Start-up, modification, monitoring and repair of technical systems
2. Site inspections
3. Preparation and review of O&M plans, operator training programs, manuals and reports

E. Community Relations Support

The **CONTRACTOR** may be required to provide community relations support during all phases of work including public hearings before County officials. Activities may include use of audio visual aids, fact sheets, and public meeting participation.

In the event services are required to be performed that are not set out above but are within the general scope of services, the EPC/HC and the **CONTRACTOR** hereby reserve the right to negotiate assignments covering the required services.

SECTION III - RESPONSIBILITIES OF THE CONTRACTOR

The **CONTRACTOR** is responsible for the professional quality, technical accuracy, timely completion and coordination of all designs, drawings, specifications, reports and other services furnished by the **CONTRACTOR** under this contract. The

CONTRACTOR is responsible for all phases of assessment and cleanup as well as liability for damage suffered by the EPC/HC for non-performance of any assigned task.

The **CONTRACTOR** shall, without additional compensation, correct or revise any errors, omissions or other deficiencies in its designs, drawing, specifications, reports and other services which exist at the time of acceptance of such document by the EPC/HC and do not conform to the following standard of care:

The **CONTRACTOR** represents that its services shall be performed within the limits prescribed by the EPC/HC in a manner consistent with that level of care and skill ordinarily exercised by other professional consultants under similar circumstances at the time the services are performed.

It shall be the responsibility of the **CONTRACTOR** to maintain written and verbal lines of communication with the owner, operator, and/or the designated representative of any facility/site where work has been assigned. A letter of introduction from the **CONTRACTOR** to the facility owner/operator and/or designated representative stating the purpose, authorization, intent, and schedule of the project is required. Furthermore, any time the **CONTRACTOR** requires access to the facility/site to perform work, the **CONTRACTOR** shall provide written notification to the facility owner/operator and/or designated representative. Additionally, at least twenty four hours prior to beginning any work at a facility/site, the **CONTRACTOR** shall provide verbal notification to the facility owner/operator and/or designated representative of the site.

The **CONTRACTOR** shall preserve such soil, rock, water, and other samples obtained from the project site, as evidence of surface and subsurface conditions. These samples shall be kept no longer than thirty-five (35) days, unless otherwise required, after the issuance of any document that includes the data obtained from those samples. If, at the EPC/HC's request, samples are to be preserved for a longer period of time than noted above, the **CONTRACTOR** can request in writing that the EPC/HC remove samples generated by the project from the **CONTRACTOR**'s possession. The EPC/HC shall promptly comply with such request, pay and be responsible for the removal and lawful disposal of samples, unless other arrangements are mutually agreed upon in writing.

It shall be the responsibility of the **CONTRACTOR** to obtain off-site access to perform work in the event that such action is necessary to complete SA activities. If the **CONTRACTOR** fails to secure off-site access, the EPC/HC shall make a good faith attempt to obtain site access on behalf of the **CONTRACTOR**, its employees, agents and subcontractors, for the purpose of providing the services. At no time shall the **CONTRACTOR** perform work pursuant to this contract on property off-site without written authorization from the property owner(s). The EPC/HC recognizes that, consistent with the standard of care provision, the use of investigative equipment and practices may unavoidably alter existing site conditions. Therefore, it shall be the responsibility of the **CONTRACTOR**, to the greatest possible extent, return the affected area(s) to its (their) pre-work condition(s).

The **CONTRACTOR** shall not be regarded as, or be required to be, a generator, transporter, treater, storer, or disposer of hazardous materials or other substances (as defined in Section 403.703(21) and (29), Florida Statutes) which are present and/or excavated from an assigned site in accordance with this contract unless the **CONTRACTOR** undertakes to transport, treat, store, or dispose (as defined in Section 403.703, Florida Statutes and FDEP rules promulgated thereunder) of hazardous material or other substances generated from an assigned site. If required by the EPC/HC, the **CONTRACTOR** shall employ the services of licensed or certified subcontractors, approved by the FDEP, for the transportation, treatment, storage, or disposal of said hazardous materials or other substances.

SECTION IV - REUSE OF DOCUMENTS

The EPC/HC shall have unlimited rights, for its benefit, in all drawings, designs, specifications, notes, and other **CONTRACTOR'S** work produced in the performance of this contract, or in contemplation thereof, and all as-built drawings produced after completion of the work, including the right to use same on any other EPC/HC work. All documents including drawings and specifications prepared by **CONTRACTOR** pursuant to this contract are instruments of service in respect of the project. They are not intended or represented to be suitable for reuse by EPC/HC or others for any other project. Reuse for another project without written verification or adaptation by the **CONTRACTOR** for the specific purpose intended will be at EPC/HC's risk. Any such verification or adaptation, if requested by EPC/HC, will entitle **CONTRACTOR** to further compensation at rates to be agreed upon by EPC/HC and **CONTRACTOR**. A reproducible set and one additional copy of plans and specifications shall be delivered to and become the property of the EPC/HC upon completion of the project by the **CONTRACTOR**.

SECTION V - TERM OF AGREEMENT

This contract is effective on the date of execution or October 1, 1998, whichever is later, and shall remain in effect until September 30, 1999, by which date all requirements, including final reports, shall have been completed. The contract may be terminated in accordance with SECTION X of this Agreement. Upon mutual agreement between the parties, this contract may be extended for an additional year for a maximum of two one year extensions.

SECTION VI - COMPENSATION

For satisfactory performance, the EPC/HC agrees to compensate the **CONTRACTOR** on a combination fixed price/cost reimbursement basis.

It is hereby understood and agreed that the compensation under this contract shall not exceed \$1,000,000 per year. The initial funding increment for this contract is set at

\$300,000. Based upon continued satisfactory performance and annual appropriations by the Legislature, the EPC/HC reserves the right to provide additional funding increments on an "as needed" basis. The **CONTRACTOR** shall be notified, by certified letter from the Director, Waste Management Division, of any additional funding increments. In no event shall the **CONTRACTOR** continue to perform services once the authorized funding increment amount under this contract is reached. It is the **CONTRACTOR's** responsibility to know when the authorized compensation is reached. On those Task Assignments or portions thereof, where the **CONTRACTOR** is to be compensated on the basis of cost plus a fixed fee, the **CONTRACTOR** shall notify the EPC/HC when the **CONTRACTOR** believes that the service cannot be completed for the estimated cost established for the Task Assignment. In such event and after a review of the explanation provided to the EPC/HC, the EPC/HC and the **CONTRACTOR** shall mutually agree upon the extent to which (1) the Scope of Services shall be adjusted so that the Task Assignment may be completed for the estimated cost, or (2) the estimated cost shall be increased in order to complete the Task Assignment, or (3) the Task Assignment shall be completed at the original estimated cost. In no event, however, shall the **CONTRACTOR** continue to provide services one the estimated cost for the Task Assignment has been reached, unless it is determined that the assignment shall be completed at the original cost.

It is further understood and agreed that the **CONTRACTOR** shall not commence work on any Task Assignment that may exceed the balance of the contract until notice is received of an increase in funding.

The EPC/HC's obligation to pay under this contract is contingent upon an annual appropriation by the Legislature or continuation of other funding presently anticipated, without liability for anticipated profits for unfinished work.

SECTION VII - PAYMENTS

Unless otherwise specified by the EPC/HC, the **CONTRACTOR** shall submit to the EPC/HC itemized invoices in accordance to the provisions of the latest edition of the FDEP's SOP. All invoices must be submitted in detail sufficient for pre-audit and post-audit review.

The review for approval of the final deliverable(s) will be completely within sixty (60) days of receipt. The request for payment of retainage will be included on the final invoice for each completed Task Assignment. The final invoice for each Task Assignment will be submitted after approval of the final deliverable(s)

The **CONTRACTOR** shall actively seek vendors to market petroleum by-products recovered from petroleum contaminated sites. The proceeds from the sale of petroleum and petroleum products recovered during the remediation of a petroleum contamination site shall be credited to the EPC/HC and supported by appropriate receipts.

Charges for services or expenses, including services and expenses of subcontractors, directly identifiable to a Task Assignment which are not included in the payment schedules of the SOP, shall be compensated at rates mutually acceptable to the EPC/HC and the **CONTRACTOR**, and shall be evidenced by an executed Task Assignment.

SECTION VII - AUDIT: ACCESS TO RECORDS

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 EPC/HC, the FDEP or their authorized representative shall have access, without cost, to such records for audit purposes during the term of the contract and for three (3) years following contract completion during established office hours and with at least a twenty-four (24) hour notice.

Multipliers used by the **CONTRACTOR** or its subcontractors for fringe benefits, overhead, and general and administrative rates may be audited by the EPC/HC and FDEP up to three (3) years after contract termination. If it is determined that the actual rates are less than the multipliers used, the **CONTRACTOR** shall be responsible for reimbursing the difference to the EPC/HC and, if applicable, recovering such monies from its subcontractors.

SECTION IX - MANAGEMENT

The EPC/HC Project Manager is Mr. Michael McKelvey, telephone number (813) 272-5788. The **CONTRACTOR'S** Project Manager is Mr. Fred Seguiti, telephone number (813) 968-7722. All matters shall be directed to the project managers for appropriate action or disposition.

All services shall be performed by the **CONTRACTOR** to the satisfaction of the Executive Director of the EPC/HC or his designated representative.

The EPC/HC may at any time, by written charge 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.). 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 and shall become a part of this contract.

All documents generated and submitted by the **CONTRACTOR** to the EPC/HC under this contract shall become the sole property of the EPC/HC and may be used by the EPC/HC as its sole discretion. However, the EPC/HC use of such materials developed by the **CONTRACTOR** under this contract on projects, or extension of projects, which are not directly related to the **CONTRACTOR'S** services under a task assignment covered by this contract, shall be at the EPC/HC's risk.

The **CONTRACTOR** warrants that he has not employed or retained any company or person, other than a bona fide employee working solely for the **CONTRACTOR**, to solicit or secure this agreement and that he has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely contingent upon or resulting from the award or making of this agreement. A violation of this provision shall constitute a breach for which the EPC/HC shall have the right to terminate this agreement without liability and, at its discretion, to deduct from the contract price or otherwise recover the full amount of such fee, commission, percentage, gift, or consideration.

SECTION X - TERMINATION

The EPC/HC reserves the right to unilaterally cancel this contract for refusal by the **CONTRACTOR** to allow public access to all documents, papers, letters, or other material subject to the provisions of Chapter 119, Florida Statutes, and made or received by the **CONTRACTOR** in conjunction with this contract. The **CONTRACTOR** shall establish procedures for the determination and separate maintenance of confidential information not subject to the public records provisions of Chapter 119, Florida Statutes, and shall afford complete access such information to the EPC/HC for a determination of confidentiality if requested by the EPC/HC.

- A. This contract may be terminated in whole or in part in writing by either party in the event of substantial failure by the other party to fulfill its obligations under this contract through no fault of the terminating party, provided that no termination may be effected unless the other party is give (1) Not less than ten (10) calendar days written notice (delivered by Certified Mail, return receipt requested) of intent to terminate; (2) an opportunity for consultation with the terminating party prior to termination, and (3) a reasonable opportunity to remedy the failure.
- B. This contract may be terminated in who or in part in writing by the EPC/HC for its convenience, provided that the **CONTRACTOR** is given: (1) Not less than ten (10) calendar days written notice (delivered by Certified Mail, return receipt requested) of intent to terminate; and (2) an opportunity for consultation with the terminating party prior to termination.
- C. If termination for default is effected by the EPC/HC, an equitable adjustment in the price provided for in this contract shall be made, but (1) no amount shall be allowed for anticipated profit on unperformed services or other work; and (2) any payment due to the **CONTRACTOR** at the time of the termination may be adjusted to cover any reasonable additional costs to the EPC/HC because of the **CONTRACTOR's** default. If termination for default is effected by the EPC/HC, the equitable adjustment shall include a reasonable profit for services or other work performed. The equitable adjustment for any termination shall provide for payment to **CONTRACTOR** for services rendered and expenses incurred prior to the termination. In addition to termination, settlement costs reasonably incurred by the **CONTRACTOR** relating to commitments which had become firm prior to termination will also be paid.

- D. Upon receipt of a termination action under paragraph A or B above, the **CONTRACTOR** shall: (1) Promptly **discontinue all affected work** (unless the notice directs otherwise); and (2) deliver or otherwise make available to the EPC/HC all data, drawings, specifications, reports, estimates, summaries, and such other information and materials as may have been prepared or accumulated by the **CONTRACTOR** in performing this contract, whether completed or in process.
- E. Upon termination under paragraph A or B above, the EPC/HC may take over the work or may award another party a contract to complete the work.
- F. If, after termination for failure of the **CONTRACTOR** to fulfill contractual obligations, it is determined that the **CONTRACTOR** had not failed to fulfill contractual obligations, the termination shall be deemed to have been for the convenience of the EPC/HC. In such event, adjustment of the contract price shall be made as provided in paragraph C of this section.

SECTION XI - SUSPENSION OF WORK

The EPC/HC may order the **CONTRACTOR** in writing to suspend, delay or interrupt all or any part of the work for such period of time as the EPC/HC may determine to be appropriate for the convenience of the EPC/HC.

If the performance of all or any part of the work is suspended, delayed or interrupted for an unreasonable period of time by an act of the EPC/HC in administration of a task assignment or by the EPC/HC's failure to act **within a reasonable time**, the EPC/HC shall make an adjustment for any increase in the cost of performance of a task assignment (excluding profit) necessarily caused by such unreasonable suspension, delay or interruption and modify the task assignment. However, no adjustment shall be made under this clause for any suspension, delay or interruption to the extent:

1. That performance would have been so suspended, delayed or interrupted by any other cause, including the fault or negligence of the **CONTRACTOR**; or
2. For which an equitable adjustment is provided or excluded under any other provision of this contract.

SECTION XII - CONFLICT OF INTEREST

The State may seek recovery of the costs of cleanup of specific sites from any and all responsible parties, and must anticipate the **possibility** of litigation. In order to avoid a conflict-of-interest or the appearance of a conflict-of-interest, the state requires that the **CONTRACTOR** notify the EPC/HC in writing within five (5) working days of the **CONTRACTOR'S** discovery of a potential conflict-of-interest and make such continuing disclosure throughout the term of the contract, any present or anticipated contractual or

other business relationship between the **CONTRACTOR**, or any subcontractor of the **CONTRACTOR**, and any of the persons or entities who are, or may be, responsible for that site. The EPC/HC agrees to notify the **CONTRACTOR** of all potentially responsible parties for a site when such information becomes available to the EPC/HC. The EPC/HC shall notify the **CONTRACTOR** within ten (10) days of receipt of such notification whether or not it deems a conflict-of-interest to exist.

For the purposes of this section, a **CONTRACTOR** or **CONTRACTOR'S** subcontractor may be deemed to have had a business relationship with one of the responsible parties if it has had such a relationship with a parent or subsidiary, a predecessor or a successor of such party, or if it has been engaged by independent legal representatives on behalf of any such parties, as so defined.

A full disclosure shall include a description of the action that the **CONTRACTOR** has taken or proposes to take, to avoid or to mitigate such conflicts-of-interest. The EPC/HC may terminate the contract if the EPC/HC deems such termination to be in the best interest of the EPC/HC, or may terminate the **CONTRACTOR'S** assignment to a particular site or sites based upon its assessment of a potential conflict-of-interest.

SECTION XIII - INSURANCE

The **CONTRACTOR** shall secure and maintain, for the term of the contract, coverage for comprehensive general liability, comprehensive auto liability and workers compensation. Within ten (10) days of the date of notification of intent to award, the **CONTRACTOR** shall provide the EPC/HC with current certificates of insurance evidencing coverage. Such insurance shall not be canceled by the **CONTRACTOR** unless the **CONTRACTOR** gives the EPC/HC thirty (30) days notice. If the insurer cancels such insurance, the **CONTRACTOR** must notify the EPC/HC within ten (10) business days of notification of cancellation by the insurance Company and provide certificates of insurance evidencing new coverage.

SECTION XIV - INDEMNIFICATION

To the extent permitted by Florida law, the **CONTRACTOR** agrees to defend, indemnify, save and hold EPC/HC, its agents, assigns, and employees, harmless from all claims or causes of action, including costs and attorney's fees, and all judgments whatsoever, involving personal injury, death, or property damage, arising out of any negligent or intentional act or omission, or the violation of any federal, state or local law or regulation, by the **CONTRACTOR**, its subcontractors, agents, assigns, invitees, or employees in connection with this Agreement. This paragraph shall not be construed as intending to indemnify the EPC/HC for claims arising out of the sole negligence of the EPC/HC. The **CONTRACTOR** further acknowledges that it is solely responsible for ensuring its compliance and the compliance of its subcontractors, agents, assigns, invitees and employees with the terms of this Agreement.

The **CONTRACTOR** may enter into a indemnification agreement with the FDEP as provided by Chapter 376.319 of the Florida Statutes, a sample copy of which is attached hereto and made part hereof as **Attachment B**. In the event the **CONTRACTOR** fails to enter into or fails to comply with the provisions of said indemnification agreement, the EPC/HC may terminate this Agreement by thirty (3) days prior written notification to the **CONTRACTOR**.

SECTION XV - 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.

CONTRACTOR:

Signature: _____

Title: _____

Date: _____

ENVIRONMENTAL PROTECTION COMMISSION OF HILLSBOROUGH COUNTY

Signature: _____

Title: _____

Date: _____

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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AIR MANAGEMENT DIVISION
TELEPHONE (813) 272-5530

WASTE MANAGEMENT DIVISION
TELEPHONE (813) 272-5788

WETLANDS MANAGEMENT DIVISION
TELEPHONE (813) 272-7104

M E M O R A N D U M

TO: EPC of Hillsborough County Board Members

FROM: Roger Stewart, Executive Director, EPC

DATE: July 29, 1998

**SUBJECT: QUARTERLY STATUS REPORT ON HILLSBOROUGH COUNTY
SUPERFUND SITES**

This memorandum serves as the quarterly status report on Superfund sites in Hillsborough County. The previous quarterly status memorandum was submitted to you on May 11, 1998.

Schuylkill Metals Corporation Site

All of the remediation work has been completed. The USEPA has received a draft operation and maintenance (O and M) plan. The USEPA is looking into de-listing the site from the National Priorities list (NPL).

Sydney Mine Sludge Pond Site

The responsible parties have submitted an intrinsic bioremediation report to the USEPA. No active pumping and treating of groundwater is occurring. Groundwater is being monitored.

62nd Street Dump Site

The USEPA is preparing to delete the site from the National Priorities List (NPL).

Helena Chemical Company Site

The Treatability Study is still being conducted. The USEPA believes that it will take about one year to complete the Remedial Design.

Reeves Southeastern Corporation Site

The USEPA expects that the Remedial Design for operable unit OU2 will be completed by the end of August 1998.

Kassouf-Kimerling Site

Construction has been completed for the wetlands mitigation at the Mobbly Bay site. A Preliminary Closure Report is being prepared for the Superfund site.

Peak Oil/Bay Drums Site

The site has been fenced, and the trash has been removed. Additional samples will be taken in order to complete the Remedial Design.

Stauffer Chemical Company Site

The Treatability Study is about to be completed. Hopefully, the Remedial Design will be completed within a few months.

Taylor Road Landfill Site

The USEPA is reviewing Hillsborough County's revised Remedial Actions work plan and hopes that the remedial actions can be implemented soon.

MRI Corporation Site

The USEPA expected to receive the draft Remedial Investigation (RI) possibly by the end of the week of July 27th. The USEPA expects to receive a draft Risk Assessment by the end of September 1998.

Normandy Park Apartments

The USEPA states that there is a cooperative responsible party for the site and that it might not be necessary to place the site on the National Priorities List (NPL). The USEPA is negotiating a Consent Order with the responsible party. The USEPA states that the responsible party has shown a willingness to perform a Remedial Investigation/ Feasibility Study (RI/FS).

Southern Solvents

The USEPA is still receiving soil and groundwater quality data. Once the data is completely obtained, the USEPA will draft a Remedial Investigation (RI) report. The USEPA will use the data from the Remedial Investigation in order to see if the site ranks as a candidate for addition to the National Priorities List (NPL). The USEPA is developing a community relations plan for the site. The site is located at 4109 Linebaugh Ave.

RPS/CH/LW

xc: Hooshang Boostani, EPC
Paul Schipfer, EPC
Chuck Heintz, EPC
Normandy Park Apartments Site File
Southern Solvents Site File

COMMISSION

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WETLANDS MANAGEMENT DIVISION
TELEPHONE (813) 272-7104

MEMORANDUM

TO: Environmental Protection Commission Board

THROUGH: Roger P. Stewart, Executive Director

FROM: Hooshang Boostani, Director, Waste Management Division

DATE: August 12, 1998

SUBJECT: AUGUST EPC AGENDA, CHAPTER 1-6 REVISIONS - STORAGE TANK INSTALLATION PLAN REVIEW FEE AND REQUIREMENT FOR FEE FOR MODIFICATION OF EPC SOLID WASTE MANAGEMENT DIRECTOR'S AUTHORIZATION INCLUDING FDEP PERMITTED FACILITIES

Currently, the Environmental Protection Commission (EPC) is performing the subject services without direct compensation for the work being performed and services provided. We are requesting a time certain public hearing be set for the September 17, 1998, EPC meeting to revise Chapter 1-6, Services-Fee Schedule (Chapter 1-6).

It is requested that Chapter 1-6 be revised to add a \$100 fee for the review of storage tank installation or upgrade plans, and that a new section be added to address minor and substantial modifications of Director's Authorizations. Please see the attached strike and underline revised Chapter 1-6 for specific details. Striked information is old and proposed to be deleted, while underlined information is new and proposed to be added.

Storage tank installations and upgrade plan reviews are not specifically required by Florida or federal environmental regulations and are thus not funded in the State contract. EPC Rule, Chapter 1-1, §1-1.03, however, does require that EPC Director approval be given prior to the issuance of a building permit for sources that could potentially pollute. Storage tanks fall within this parameter. Hillsborough County and its municipal building departments do not review such plans for the standards required by Chapter 62-761, Florida Administrative Code - Storage Tank Rule. EPC believes that the proactive way to reduce the potential for these sources to pollute is to review installation and upgrade plans prior to construction.

CHAPTER 1-6 REVISIONS

August 12, 1998

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Since 1989 EPC has reviewed these plans for no fee. Staff time to review these plans has continuously increased, due to the increased number and complexity of plan reviews, while State funding for the tanks program has decreased. Based on evaluation of staff time required, EPC believes a \$100 plan review fee is appropriate.

EPC is also requesting to add a new section (§1-6.03 6. Modifications) to Chapter 1-6, §1-6.03 Solid Waste Management to address minor and major modifications to facilities requiring Director's Authorizations.

The proposed changes would not require a fee for extremely minor changes such as authorization corrections, minor changes which will not involve new work, or new work locations which will not alter, replace or eliminate permit requirements. A fee of \$60 would be required for minor changes such as authorization transfer, time extension, minor changes which involve new work, or new work locations, which will alter, replace or eliminate permit requirements. A fee equaling the existing published application review fee would be required for substantial modifications. Substantial modifications are major changes to design, plans and/or operations that will require detailed and time intensive review on the part of EPC.

Similar modification requirements exist in other parts of Chapter 1-6 as well as the State Fee Schedule, Chapter 62-4, F.A.C.

In closing, EPC believes both requests are necessary and justified based time expended and on cost to the Agency and public.

(Attachment)

ENVIRONMENTAL PROTECTION COMMISSION

CHAPTER 1-6
SERVICES-FEE SCHEDULE

- 1-6.01 Declaration and Intent
- 1-6.02 Air Management
- 1-6.03 Solid-Waste Management
- 1-6.04 Water Management
- 1-6.05 Wetlands Management
- 1-6.06 Other Miscellaneous Charges
- 1-6.07 Fee Waivers
- 1-6.08 Prohibitions

1-6.01 DECLARATION AND INTENT

It is the intent of the Commission to establish reasonable charges for services performed by the Environmental Protection Commission Director, and his duly authorized agents and employees in the review of applications and other technical materials, in the investigation of cases involving violation of the Code, and in the conduct of inspections.

Said charges are for the purpose of defraying expenses incurred by the Environmental Protection Commission in performing professional services necessitated by the actions of others. All funds collected for said services shall become funds of Hillsborough County and shall be deposited in the General Revenue Fund.

1-6.02 AIR MANAGEMENT

A. Stationary Source Permitting

1. The following application and compliance fees apply to permits that are to be reviewed pursuant to the authority of Chapter 84-446, Laws of Florida, and not pursuant to full permit delegation from the Florida Department of Environmental Protection (DEP) except as provided in subsection A.2 below. The fees for the non-delegated facilities are as follows:

- (a) Construction Permit for an air pollution source
 - (i) new source review or prevention of significant deterioration \$ 480
 - (ii) all others \$ 960
- (b) Operation Permit for an air pollution source for 5 yrs *
 - (i) minor facility \$1245
 - (1) application review \$ 795
 - (2) compliance activities \$ 450
 - (ii) synthetic minor facility \$1645
 - (1) application review \$ 795
 - (2) compliance activities \$ 850
 - (iii) major facility \$2645
 - (1) application review \$ 795
 - (2) compliance activities \$1850
- (c) Revise an air pollution source permit * \$ 380
- (d) Transfer of ownership, name change, and extension of expiration date for each air permit * \$ 45

2. Air permits being reviewed and processed pursuant to full permit delegation from DEP shall be subject to the processing fees set forth in section 62-4.050 F.A.C., as summarized below, and shared with DEP as agreed.

- (a) Construction permits
 - (i) source with PSD or NAA, 100 tons/yr or more \$7500
 - (ii) source without PSD or NAA, 100 tons/yr or more \$5000
 - (iii) source 50 tons/yr but less than 100 \$4500
 - (iv) source 25 tons/yr but less than 50 \$2000
 - (v) source 5 tons/yr but less than 25 \$1000
 - (vi) source less than 5 tons/yr. \$ 250
 - (vii) minor modification \$ 250
 - (viii) minor modification, original permit fee less that \$300 \$ 50
 - (ix) transfer of ownership/permit \$ 50
 - (x) time extension on permit \$ 50
- (b) Operation permits *
 - (i) major source no fee
 - (ii) minor source - stack sample \$1500
 - (iii) minor source - other sample \$1000
 - (iv) minor source - no sample \$ 750
 - (v) minor modifications \$ 250
 - (vi) transfer of permit ownership \$ 50
 - (vii) time extension on permit \$ 50
 - (viii) variable from permitting standards or conditions \$2000

*NOTE: Major sources will pay a Title V fee pursuant to Section 62-213 F.A.C. If EPC and DEP have an agreement to share this fee, then no additional fee will be required under this rule. However, if there is no fee sharing agreement, then fees listed in Section 1-6.02 A.1. above shall apply for delegated Title V sources. All fully delegated non-Title V source shall pay according to this schedule.

B. Asbestos Notification

- 1. Notification for commercial demolition
 - (a) for structure less than 50,000 sq ft \$ 115
 - (b) for structure greater than 50,000 sq ft \$ 215
- 2. Notification for Asbestos Abatement
 - (a) renovation 160 to 1000 sq ft or 260 to 1000 linear feet of asbestos \$ 145
 - (b) renovation greater than 1000 linear feet or 1000 sq ft \$ 200

C. Mobile Source Certification

- 1. Compliance certification
 - (a) automobile retail operations \$ 75
 - (b) automobile repair operations \$ 70
 - (c) automotive parts and supplies retail operations \$ 45
 - (d) gasoline service stations - VBS \$ 35

D. Open Burning

- (a) open burning authorization \$ 425

1-6.03 SOLID-WASTE MANAGEMENT

A. Solid Waste

1. Construction permits		
(a) class I or II facility - 5 year permit		\$2350
(i) application review	\$ 550	
(ii) compliance	\$1800	
(b) class III facility - 5 year permit		\$1330
(i) application review	\$ 330	
(ii) compliance	\$1000	
(c) yard trash/compost facility - 5 years		\$1275
(i) application review	\$ 275	
(ii) compliance	\$1000	
(d) resource recovery/incinerator - 5 years		\$ 960
(i) application review	\$ 460	
(ii) compliance	\$ 500	
(e) all other solid waste facilities - 5 years		\$1530
(i) application review	\$ 330	
(ii) compliance	\$1200	
2. Operation permits		
(a) class I or II facility - 5 years		\$2200
(i) application review	\$ 400	
(ii) compliance	\$1800	
(b) class III facility - 5 years		\$1275
(i) application review	\$ 275	
(ii) compliance	\$1000	
(c) yard trash/compost facility - 5 years		\$1275
(i) application review	\$ 275	
(ii) compliance	\$1000	
(d) resource recovery/incinerator - 5 years		\$ 775
(i) application review	\$ 275	
(ii) compliance	\$ 500	
(e) all solid waste facilities - 5 years		\$1275
(i) application review	\$ 275	
(ii) compliance	\$1000	
3. Closure permits		
(a) class I or II facilities - 5 years		\$ 835
(i) application review	\$ 335	
(ii) compliance	\$ 500	
(b) class III facility - 5 years		\$ 835
(i) application review	\$ 335	
(ii) compliance	\$ 500	
(c) yard trash/compost facility - 5 years		\$ 775
(i) application review	\$ 275	
(ii) compliance	\$ 500	
(d) all other solid waste facilities - 5 years		\$ 775
(i) application review	\$ 275	
(ii) compliance	\$ 500	
4. General permits		
(a) commercial const/demo - 5 years		\$1600
(i) application review	\$ 400	
(ii) compliance	\$1200	
(b) residential const/demo - 5 years		\$1125
(i) application review	\$ 125	
(ii) compliance	\$1000	

(c) all other solid waste facilities - 5 years	\$1260
(i) application review	\$ 260
(ii) compliance	\$1000

5. EPC Authorization for facilities not requiring DEP permit	
(a) commercial facility - 5 years	\$1530
(i) application review	\$ 330
(ii) compliance	\$1200
(b) residential facility - 1 year	\$ 385
(i) application review	\$ 185
(ii) compliance	\$ 200

6. Modifications

(a) minor modifications	
(i) corrections, minor changes which will not involve new work, or new work locations which will not alter, replace or eliminate permit requirements.	\$ 0
(ii) transfer, time extension, minor changes which involve new work, or new work locations which will alter, replace or eliminate permit requirements.	\$ 60

(b) substantial modifications shall require the appropriate application review fee in conformance with Section 1-6.03, 1 through 5.

67. Small Quantity Hazardous Waste Generators **

(a) annual notification/verification fee	\$ 40
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**NOTE: These Environmental Protection Commission fees will normally be collected by the Hillsborough County Tax Collector.

B. Storage Tanks

1. Storage tank installation and upgrade plan reviews	\$ 100
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1-6.04 WATER MANAGEMENT

A. The following application and compliance fees apply to permits that are to be reviewed pursuant to the authority of Chapter 84-446, Laws of Florida, and not pursuant to permit delegation from the Florida Department of Environmental Protection.

1. Domestic wastewater source permits	
(a) preliminary design report	
(i) types I & II	\$1030
(ii) type III	\$ 610
(iii) minor modifications	\$ 360
(b) facility permit for 5 years	
(i) types I & II	\$1470
(a) application review	\$ 380
(b) compliance activities	\$1090
(ii) type III	\$ 930
(a) application review	\$ 380
(b) compliance activities	\$ 550
(c) permit modifications (transfer, time extensions, conditions)	\$ 60
(d) residual site application	
(i) agricultural use plan (AUP)	\$1445
(a) application review	\$ 580
(b) compliance activities	\$ 865
(ii) dedicated site plan (DSP)	\$1745
(a) application review	\$ 700
(b) compliance activities	\$1045

2. Collection systems

(a) general permit		
(i) less than 10 EDU	\$ 230	
(ii) 10 or more EDU	\$ 460	
(a) application review	\$ 230	
(b) compliance	\$ 230	
(b) standard permit		
(i) less than 10 EDU	\$ 270	
(ii) 10 or more EDU	\$ 500	
(a) application review	\$ 270	
(b) compliance	\$ 230	
3. Industrial wastewater source permits		
(a) preliminary design report		
(i) types I & II	\$1200	
(ii) type III with groundwater monitoring	\$1200	
(iii) type III w/o groundwater monitoring	\$ 780	
(b) facility permit for 5 years		
(i) types I & II	\$1415	
(a) application review	\$ 870	
(b) compliance activities	\$ 545	
(ii) type III w/groundwater monitoring	\$1415	
(a) application review	\$ 870	
(b) compliance activities	\$ 545	
(iii) type III w/o groundwater monitoring	\$1295	
(a) application review	\$ 750	
(b) compliance activities	\$ 545	
(c) general permits	\$ 275	
(d) minor permit modifications (excluding time extensions)	\$ 360	

B. Water permits being reviewed and processed by the Commission pursuant to permit delegation from the Department of Environmental Protection shall be subject to the processing fees set forth in section 62-4.050 F.A.C., although the compliance fees above may also apply as appropriate.

1-6.05 WETLANDS MANAGEMENT

1. Land Excavation Permits ***		
(a) new and expansion	\$ 785	
(b) extension and renewal	\$ 650	
2. Rezoning Applications ***		
(a) CU, CP, IP, MHP/RVP, conditional use	\$ 85	
(b) all others	\$ 85	
3. Subdivision Applications ***		
(a) preliminary	\$ 140	
(b) master plan	\$ 550	
(c) construction	\$ 250	
(d) final plat	\$ 90	
(e) waivers	\$ 100	
(f) minor subdivision plans	\$ 100	
(g) as-built verification	\$ 255	
4. Dredge and Fill Permit Applications		
(a) minor form (no site inspection necessary)	\$ 50	
(b) minor form (site inspection required)	\$ 150	
(c) standard form	\$ 220	
5. Phosphate Mining		
(a) annual review and inspection ***	\$ 375	
(b) unit review and reclamation	\$ 760	
(c) bimonthly inspections (5 per year) ***	\$ 310	

6. Development of Regional Impact ***	\$1305
7. Commercial Site Development Application***	\$ 360
8. Site Clearing/Alteration/Bldg. Permit ***	\$ 100
9. House Bill Application ***	\$ 100
10. Wetland Delineation	
(a) office	\$ 120
(b) field	
(i) less than 250 L.F.	\$ 120
(ii) 250 L.F. to 3500 L.F.	\$120 + .05 L.F.
(iii) 3501 and up	each additional increment of 3500 L.F. + .05 L.F.
(c) nuisance species verification	no fee
11. Wetland Mitigation	\$ 775

***NOTE: These Environmental Protection Commission Fees will be collected by Hillsborough County.

1-6.06 OTHER MISCELLANEOUS CHARGES

1. Enforcement Costs	\$36/hr
2. Data Processing Data Analysis	\$36/hr
3. Certification of Copies	\$1/pg
4. Copies	.15/pg

1-6.07 FEE WAIVERS

- The Executive Director may waive the appropriate application fee in cases of financial hardship.
- The Executive Director may modify or waive an application fee in circumstances where unfairness would otherwise be the result.

1-6.08 PROHIBITIONS

The fees listed in Section 1-6.02 through 1-6.05 are due and payable upon submission of a request, application or notification. Whenever a request, application or notification is submitted without the required fee, receipt shall be acknowledged and the request, application or notification shall be immediately returned with attachments; no further action shall be taken until the appropriate fees are submitted along with the supporting documents. It shall be a violation to fail to pay a required fee.

[Publishers Note: EPC charges for development and rezoning applications may be submitted to appropriate governmental entities where the review process has been coordinated with EPC]

Adopted 2/28/85	Effective 3/15/85
Amended 2/26/86	
Amended 12/11/86	
Amended 1/13/88	
Amended 2/28/90	Effective 4/1/90
Amended 7/10/90	
Amended 8/22/90	Effective 10/1/90
Amended 5/22/90	
Amended 9/25/91	
Amended 11/5/91	
Amended 3/24/93	
Amended 5/26/93	
Amended 1/25/95	
Amended 8/21/97	

AGENDA ITEM COVER SHEET

EPC Meeting Date: August 20, 1998

Agenda Item: Request for authority on Tampa Scrap Processors, Inc. facility
EPC administrative case #95-7533

Description/Summary:

Appellant Tampa Scrap Processors, Inc. (TSP) appealed the Executive Director's Citation and Order to Correct Violations. TSP is a scrap metal processing facility operated on land owned by the Tampa Port Authority and leased to TSP. TSP was ordered to cease discharging waste oil, oily wastes, and other motor fluids to the soils, ground waters, surface waters, or marine waters; submit a Preliminary Contamination Assessment Plan (PCAP); submit a Preliminary Contamination Assessment Report (PCAR); submit a plan detailing operational measures to identify potential discharge sources as they are brought onto TSP property including prevention, maintenance, spill control, and disposal methods for pollutants on-site; submit a plan for stormwater containment; and submit the appropriate fee for a Director's Authorization to operate a Solid Waste Management Facility in Hillsborough County.

TSP and EPC have been attempting to resolve the current situation through a Consent Order/Agreement. No such agreement has been entered.

In order to seek monetary sanctions against TSP, it is necessary to pursue litigation outside the forum of an administrative hearing, unless a penalty figure is part of a Consent Order. No such figure can be agreed upon, and the required PCAP and PCAR have yet to be submitted by TSP.

Commission Action Recommended:

Grant authority to pursue legal actions against all responsible parties as necessary to ensure compliance with the Director's Citation to Cease and Order to Correct, obtain the necessary assessment and remediation and to recover appropriate civil penalties and reimbursement of the Commission's costs of enforcement.

Commission Action Taken:

AGENDA ITEM COVER SHEET

EPC Meeting Date: August 20, 1998

**Agenda Item: *EPC Appeal of William M. Chiles, d/b/a/ Manhattan Oil Company*
LMAN97-161**

Description/Summary:

Appellant, **William M. Chiles** appealed The Executive Director's Citation and Order to Correct Violations. **Mr. Chiles was the owner of the Manhattan Oil Company Station (facility), located at 5301 South Manhattan Avenue, Tampa. Mr. Chiles was ordered to empty the out-of-service underground storage tanks (UST's) on-site, test and monitor the facility to detect leaks, maintain records of the tests and monitoring, properly close the out-of-service and unmaintained UST's on-site, and to properly cap the monitoring wells and provide proof of financial responsibility to the Commission. The matter was heard by Vanessa Cohn, Esq., a local attorney under contract with EPC to serve as Hearing Officer.**

On July 13, 1998, based on a Consent Order/Settlement Agreement covering all issues in the citation except the closure of certain UST's at the facility and a Motion for Summary Disposition filed by the Executive Director, the hearing officer filed Findings of Fact, Conclusions of Law and Recommendations to the EPC supporting the position taken by the Executive Director. Parties have been notified and no exceptions to the Hearing Officer's findings or recommendations have been filed within the time allowed under commission rules. Rule 1-2.35 states that "[i]f no exceptions are filed within the period, the Commission shall adopt the Hearing Officer's findings of fact and shall make appropriate conclusions of law, and render a Final Order." The Hearing Officer's findings, conclusions and recommendations are included in the agenda backup along with a draft EPC Final Order.

Commission Action Recommended:

Enter a Final Order adopting the Hearing Officer's Findings of Fact, Conclusions of Law and Recommendations.

Commission Action Taken:

**BEFORE THE
ENVIRONMENTAL PROTECTION COMMISSION
OF HILLSBOROUGH COUNTY**

**In Re: Appeal of William M. Chiles,
d/b/a Manhattan Oil Co.**

EPC # LMAN97-161

**FINAL ORDER OF
THE ENVIRONMENTAL PROTECTION COMMISSION
OF HILLSBOROUGH COUNTY**

On July 13, 1998 the assigned administrative hearing officer submitted her Recommended Order to the Environmental Protection Commission of Hillsborough County (EPC). The Recommended Order indicated that copies were served upon the Parties. Pursuant to 1-2.35 of the Rules of the Commission, the Parties to this proceeding were provided 10 days in which to file Exceptions to the Hearing Officer's report. No exceptions to any portion of the Recommended Order were filed on behalf of any party. The matter is now before the EPC for final agency action and therefore, the Hearing Officer's Findings of Fact, Conclusions of Law and Recommendations are adopted in their entirety as follows:

This case involves the improper operation and abandonment of underground storage tank systems ("UST") in contravention of Florida Statutes, Florida Department of Environmental Protection ("DEP") rules, and rules promulgated under the enabling act of the Environmental Protection Commission of Hillsborough County. A Citation and Order to Correct Violations was issued upon William M. Chiles by the Environmental Protection Commission, Executive Director, on October 22, 1997. The Citation and Order directed Mr. Chiles to empty the out-of-service tanks on site, test and monitor the facility to detect leaks, maintain records of the tests and monitoring, properly close the out of service and unmaintained UST's on site, and to properly cap the monitoring wells and provide proof of financial responsibility to the Commission. The Citation also set out the Executive Director's determinations as to "findings of fact" which reflect that the operation of the facility was in violation of 84-446 Section 17, Rule 1-12-61 Rules of the Commission, 376 Florida Statutes and 62-761 F.A.C.

Mr. Chiles filed with the Commission his letter designated as an "appeal" dated November 18, 1997. Mr. Chiles' appeal of the Citation resulted in the appointment of a hearing officer by the EPC, pursuant to 84-446 Laws of Florida, as amended, Section 6. A pre-hearing

conference on this appeal was held on February 19, 1998. During that pre-hearing conference Mr. Chiles confirmed the position he had asserted in his appeal letter. That is, that monitoring wells have been properly capped, proof of financial responsibility has been provided to EPC staff as required and that appellant is not financially able to comply with the Executive Director's Order to Correct. Also, at pre-hearing conference EPC staff confirmed that Mr. Chiles has, since the issuance of the citation, provided proof of financial responsibility and therefor that portion of the Director's Order to Correct, having been complied with, is moot.

The EPC, Executive Director, on March 18, 1998, filed a motion for summary disposition, based on the papers and pleadings filed in this matter, requesting that the hearing officer enter findings, conclusions, and recommendations to the Commission in favor of the Executive Director. Mr. Chiles responded to the motion again reiterating his position as set out in the appeal letter. Hearing on the Director's motion was properly noticed and was held on April 15, 1998. At the hearing the EPC, Executive Director was represented by Attorney Vernon R. Wagner, William Chiles appeared pro se, by telephone. During the hearing the parties advised the hearing officer that an agreement between the parties had been reached, but not yet formalized, which was anticipated to resolve issues pertaining to leak detection requirements, well cap integrity and record keeping. That agreement has now been memorialized in the form of a Consent Order/Settlement Agreement executed by parties hereto and made part of this file. Among other things, the agreement includes the EPC, Executive Director's, withdrawal of the October, 1997, Citation, except as it pertains to the out-of-service status, tank emptying and other actions pertaining to the proper closure of the UST's on site. Therefore, the only issues remaining for the hearing officer pertain to the out-of-service status and proper closure of the facilities UST systems numbered "5", "6", "7", & "9".

As a procedural point, the undersigned hearing officer notes that Section 6, of EPC's enabling act requires the hearing officer to make findings of fact, conclusions of law, and a final recommendation to the Commission. Rules of the Commission, 1-2.34, calls for the Hearing Officer to hear and determine all factual disputes *properly raised by the Notice of Appeal* concerning actions or decisions of the Executive Director relating to compliance with chapter 84-446, and rules and regulations promulgated by the Commission. Rules of the Commission, §1-2.31(4), gives the Hearing Officer the power to consider procedural motions without hearings, using the Rules of Civil Procedure as guidance. By analogy to Florida's Administrative Procedure Act §120.57(2) hearing in which there are no disputed issues of material fact, the hearing officer is permitted to accept oral *or* written evidence in opposition to the agency's

action. In the present case, because there are no disputed issues of material fact relating to the existence or extent of the alleged violations, summary disposition relating to the existence of the violation and the requirements for closure is appropriate. The hearing officer was not requested to rule or make recommendations as to the appropriateness or reasonableness of civil penalties and costs which may ultimately be sought.

Based on the foregoing, the undersigned hearing officer made these

FINDINGS OF FACT:

1. On November 18, 1997, Commission received a letter from William M. Chiles, designated as an "appeal" in response to an EPC, Executive Director's Citation and Order to Correct, dated October 22, 1997.

2. The subject citation includes the following EPC, Executive Director's determinations as findings of fact:

a. DEP Facility #298625291, known as Manhattan Oil Company Station (Facility), is located at 5301 South Manhattan Avenue, Tampa, folio number 131220.5000; Section 9, Township 30 South, Range 18 East, in Hillsborough County, Florida (Property). The Property is owned by Mr. William M. Chiles. The Property and Facility include underground storage tank systems.

b. Ten underground storage tank systems at the Facility have been registered with the DEP. The storage tank systems are as follows:

Tank System No.	Tank Size (gallons)	Installation Date	Tank Status
1	4,000	unknown	Closed - Removed
2	4,000	2/75	Closed - Removed
3	4,000	unknown	Closed - Filled in Place
4	2,000	unknown	Closed - Filled in Place
5	3,000	1977	Unmaintained
6	4,000	8/77	Unmaintained
7	4,000	1977	Unmaintained
8	4,000	1977	Closed - Removed
9	8,000	2/80	In Service
1R1	10,000	8/95	In Service

c. Tank systems numbered "5", "6", "7", and "9" at the Facility were neither retrofitted with secondary containment and dispenser liners nor properly closed by December 31, 1995, as required by Chapter 62-761, Florida Administrative Code (FAC).

d. Tank system number "5" was improperly taken out-of-service in July 1995. Tank systems numbered "6" and "7" were improperly taken out-of-service on or before September 1994. The release detection devices for these tank systems were not monitored every six months, and the contents of these tanks were not pumped to within one inch of depth or .3 percent of total tank system volume. In addition, said tank systems were not properly closed within 12 months of being taken out-of-service.

e. Tank system number "9" was taken out-of-service on or before October 21, 1997. However, the contents of this tank system was not pumped to within one inch of depth or .3 percent of total volume.

3. Although the Chiles "appeal letter" alleges new facts which may be relevant in the determination of reasonableness of civil penalties, no facts were disputed by Mr. Chiles which relate to the existence of violations pertaining to the out-of-service status of the UST systems 5,6,7 & 9 or the requirements for their proper closure.

4. Rules of the Commission, 1-2.33 (4), places the burden of proof on the Executive Director "to establish each material fact reasonably raised in the appeal of a Citation" but states further that, "[f]act issues not raised by the Notice of Appeal shall be accepted as undisputed."

CONCLUSIONS OF LAW:

There does not appear to be any disagreement as to the application of the above undisputed facts to the law. Violations of the following laws and rules have been clearly demonstrated:

1. Section 17 of the Act - by causing or taking such action which may reasonably be expected to cause water pollution in Hillsborough County as defined in Section 3 (15) of the Act.

2. Section 17 of the Act - by failing to comply with the following rules and standards adopted by the commission:

a. Section 1-12-61.50, of the Rules - by failing to meet the retrofit schedule for tank systems installed in 1977 and 1980 [as adopted from Section 62-761.510(1), F.A.C.]

b. Section 1-12-61.20, of the Rules - by failing to empty out-of-service tanks to within one inch of depth or within .3 percent of weight of total system capacity [as adopted from Section 62-761.200(26), F.A.C.]

c. Section 1-12-61.73, of the Rules - by failing to monitor release detection devices for out-of-service tanks every six months [as adopted from Section 62-761.800(1)(a)2, F.A.C.]

- d. Section 1-12-61.73, of the Rules - by failing to permanently close a storage tank system constructed of unprotected bare steel which has been out-of-service for more than 12 months [as adopted from Section 62-61.800(2)(b), F.A.C.]

EPC has contracted with the DEP to administer the UST program in Hillsborough County. EPC also has independent authority under its enabling act, 84-446, Laws of Florida, as amended, and has adopted by reference, in EPC Rules, Chapter 1-12, the UST rules of the DEP (since renumbered from "17-61" to "62-761").

UST systems may be taken "out-of-service" for a temporary period of time not to exceed two years, or must be permanently closed. However, F.A.C. 62-761.500 and 62-761.510 require bare-steel tanks which have been out of service for over a year to be retrofitted with additional safety equipment or permanently closed according to 62-761.800 F.A.C. Additionally, unmaintained UST systems must be properly closed within ninety (90) days of discovery, 62-761.800(2) F.A.C. The undisputed facts reflect that four of the Respondent's UST's are unmaintained and have not been properly closed. The UST's numbered as system "5", "6", "7" and "9" are bare-steel systems, which are currently not being used and subject to 62-761.500, and 62-761.510. Three of the tanks ("5," "6," and "7") have been out-of-service for over a year, and one has been out-of-service since at least October 21, 1997 ("9"). Tanks "5," "6," and "7," and "9" are all subject to the 62-761 requirement to be retrofitted or properly closed by December 31, 1995. None of these four tanks have been retrofitted for future use. None of these four tanks have been properly closed.

"Closure" requirements for UST systems are set out in 62-761.800 F.A.C. As part of any permanent closure of a UST system, a closure assessment must be made in order to determine if a release has occurred, 62-761.800(3) F.A.C. The report of a closure assessment must be prepared and submitted to DEP or the administering local agency within 60 days after the closure of the UST system. If the closure assessment indicates the presence of contaminated soil and/or groundwater, the owner or operator of the UST facility is required to take corrective actions and to remediate the contaminated soil and/or groundwater. The actual closure of the system also consists of removing all liquids and accumulated sludge from the tanks, filling the tanks with solid inert material sufficient to prevent a structural collapse of the closed system, or removal of the tanks, 62-761.800(2)(d) F.A.C. None of these actions have been completed.

THEREFORE,

Based upon the foregoing findings of fact and conclusions of law submitted by the administrative hearing officer on July 13, 1998, and no exceptions having been filed within the ten (10) days allowed under Chapter 1-2.35, Rules of the Commission, the Commission hereby adopts the findings of fact and conclusions of law of the administrative hearing officer. Consequently, and pursuant to Chapter 1-2.35, Rules of the Commission, the Commission **ORDERS** that Appellant William Chiles is required to properly close the underground storage tanks previously discussed and numbered "5," "6," "7," and "9," located at DEP Facility #298625291, known as Manhattan Oil Company Station, located at 5301 South Manhattan Avenue, folio # 131220.5000; Section 9, Township 30 South, Range 18 East, in Hillsborough County, Florida in compliance with the rules and regulations governing underground storage tank systems, including, but not limited to the following: 84-446 Section 17, Rule 1-12-61 Rules of the Commission, §376 Florida Statutes, and 62-761 F.A.C.

Done and Ordered this ____ day of August, 1998.

Jan Platt, Chairperson
Environmental Protection Commission
Hillsborough County, Florida

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing Final Order has been sent by United States Postal Service to: William M. Chiles, 55 Bristol Drive, So. Easton, MA 02375, this ____ day of _____, 1998.

Vernon R. Wagner, Esq.
Environmental Protection Commission
of Hillsborough County
1900 9th Ave.
Tampa, FL 33605
(813) 272-5960

**BEFORE THE
ENVIRONMENTAL PROTECTION COMMISSION
OF HILLSBOROUGH COUNTY**

**In Re: Appeal of William M. Chiles,
d/b/a Manhattan Oil Co.**

EPC # LMAN97-161

**FINDINGS OF FACT, CONCLUSIONS OF LAW AND RECOMMENDATIONS TO
THE ENVIRONMENTAL PROTECTION COMMISSION
OF HILLSBOROUGH COUNTY**

This case involves the improper operation and abandonment of underground storage tank systems ("UST") in contravention of Florida Statutes, Florida Department of Environmental Protection ("DEP") rules, and rules promulgated under the enabling act of the Environmental Protection Commission of Hillsborough County. A Citation and Order to Correct Violations was issued upon William M. Chiles by the Environmental Protection Commission, Executive Director, on October 22, 1997. The Citation and Order directed Mr. Chiles to empty the out-of-service tanks on site, test and monitor the facility to detect leaks, maintain records of the tests and monitoring, properly close the out of service and unmaintained UST's on site, and to properly cap the monitoring wells and provide proof of financial responsibility to the Commission. The Citation also set out the Executive Director's determinations as to "findings of fact" which reflect that the operation of the facility was in violation of 84-446 Section 17, Rule 1-12-61 Rules of the Commission, 376 Florida Statutes and 62-761 F.A.C.

Mr. Chiles filed with the Commission, his letter designated as an "appeal" dated November 18, 1997. Mr. Chiles' appeal of the Citation resulted in the appointment of a hearing officer by the EPC, pursuant to 84-446 Laws of Florida, as amended, Section 6. A pre-hearing conference on this appeal was held on February 19, 1998. During that pre-hearing conference Mr. Chiles confirmed the position he had asserted in his appeal letter. That is, that monitoring wells have been properly capped, proof of financial responsibility has been provided to EPC staff as required and that appellant is not financially able to comply with the Executive Director's Order to Correct. Also, at pre-hearing conference EPC staff confirmed that Mr. Chiles has, since the issuance of the citation, provided proof of financial responsibility and therefore that portion of the Director's Order to Correct, having been complied with, is moot.

The EPC, Executive Director, on March 18, 1998, filed a motion for summary disposition, based on the papers and pleadings filed in this matter, requesting that the hearing officer enter findings, conclusions, and recommendations to the Commission in favor of the Executive Director. Mr. Chiles responded to the motion again reiterating his position as set out in the appeal letter. Hearing on the Director's motion was properly noticed and was held on April 15, 1998. At the hearing the EPC, Executive Director was represented by Attorney Vernon R. Wagner, William Chiles appeared pro se, by telephone. During the hearing the parties advised the hearing officer that an agreement between the parties had been reached, but not yet formalized, which was anticipated to resolve issues pertaining to leak detection requirements, well cap integrity and record keeping. That agreement has now been memorialized in the form of a Consent Order/Settlement Agreement executed by parties hereto and made part of this file. Among other things, the agreement includes the EPC, Executive Director's, withdrawal of the October, 1997, Citation, except as it pertains to the out-of-service status, tank emptying and other actions pertaining to the proper closure of the UST's on site. Therefore, the only issues remaining for the hearing officer pertain to the out-of-service status and proper closure of the facilities UST systems numbered "5", "6", "7", & "9".

As a procedural point, the undersigned hearing officer notes that Section 6, of EPC's enabling act requires the hearing officer to make findings of fact, conclusions of law, and a final recommendation to the Commission. Rules of the Commission, 1-2.34, calls for the Hearing Officer to hear and determine all factual disputes *properly raised by the Notice of Appeal* concerning actions or decisions of the Executive Director relating to compliance with chapter 84-446, and rules and regulations promulgated by the Commission. Rules of the Commission, §1-2.31(4), gives the Hearing Officer the power to consider procedural motions without hearings, using the Rules of Civil Procedure as guidance. By analogy to Florida's Administrative Procedure Act §120.57(2) hearing in which there are no disputed issues of material fact, the hearing officer is permitted to accept oral *or* written evidence in opposition to the agency's action. In the present case, because there are no disputed issues of material fact relating to the existence or extent of the alleged violations, summary disposition relating to the existence of the violation and the requirements for closure is appropriate. The hearing officer has not been requested to rule or make recommendations as to the appropriateness or reasonableness of civil penalties and costs which may ultimately be sought.

Based on the foregoing , the undersigned hearing officer makes these

FINDINGS OF FACT:

1. On November 18, 1997, Commission received a letter from William M. Chiles, designated as an "appeal" in response to an EPC, Executive Director's Citation and Order to Correct, dated October 22, 1997.

2. The subject citation includes the following EPC, Executive Director's determinations as findings of fact:

a. DEP Facility #298625291, known as Manhattan Oil Company Station (Facility), is located at 5301 South Manhattan Avenue, Tampa, folio number 131220.5000; Section 9, Township 30 South, Range 18 East, in Hillsborough County, Florida (Property). The Property is owned by Mr. William M. Chiles. The Property and Facility include underground storage tank systems.

b. Ten underground storage tank systems at the Facility have been registered with the DEP. The storage tank systems are as follows:

Tank System No.	Tank Size (gallons)	Installation Date	Tank Status
1	4,000	unknown	Closed - Removed
2	4,000	2/75	Closed - Removed
3	4,000	unknown	Closed - Filled in Place
4	2,000	unknown	Closed - Filled in Place
5	3,000	1977	Unmaintained
6	4,000	8/77	Unmaintained
7	4,000	1977	Unmaintained
8	4,000	1977	Closed - Removed
9	8,000	2/80	In Service
1R1	10,000	8/95	In Service

c. Tank systems numbered "5", "6", "7", and "9" at the Facility were neither retrofitted with secondary containment and dispenser liners nor properly closed by December 31, 1995, as required by Chapter 62-761, Florida Administrative Code (FAC).

d. Tank system number "5" was improperly taken out-of-service in July 1995. Tank systems numbered "6" and "7" were improperly taken out-of-service on or before September 1994. The release detection devices for these tank systems were not monitored every six months, and the contents of these tanks were not pumped to within one inch of depth

or .3 percent of total tank system volume. In addition, said tank systems were not properly closed within 12 months of being taken out-of-service.

e. Tank system number "9" was taken out-of-service on or before October 21, 1997. However, the contents of this tank system was not pumped to within one inch of depth or .3 percent of total volume.

3. Although the Chiles "appeal letter" alleges new facts which may be relevant in the determination of reasonableness of civil penalties, no facts were disputed by Mr. Chiles which relate to the existence of violations pertaining to the out-of-service status of the UST systems 5,6,7 & 9 or the requirements for their proper closure.

4. Rules of the Commission, 1-2.33 (4), places the burden of proof on the Executive Director "to establish each material fact reasonably raised in the appeal of a Citation" but states further that, "[f]act issues not raised by the Notice of Appeal shall be accepted as undisputed."

CONCLUSIONS OF LAW:

There does not appear to be any disagreement as to the application of the above undisputed facts to the law. Violations of the following laws and rules have been clearly demonstrated:

1. Section 17 of the Act - by causing or taking such action which may reasonably be expected to cause water pollution in Hillsborough County as defined in Section 3 (15) of the Act.

2. Section 17 of the Act - by failing to comply with the following rules and standards adopted by the commission:

a. Section 1-12-61.50, of the Rules - by failing to meet the retrofit schedule for tank systems installed in 1977 and 1980 [as adopted from Section 62-761.510(1), F.A.C.]

b. Section 1-12-61.20, of the Rules - by failing to empty out-of-service tanks to within one inch of depth or within .3 percent of weight of total system capacity [as adopted from Section 62-761.200(26), F.A.C.]

c. Section 1-12-61.73, of the Rules - by failing to monitor release detection devices for out-of-service tanks every six months [as adopted from Section 62-761.800(1)(a)2, F.A.C.]

d. Section 1-12-61.73, of the Rules - by failing to permanently close a storage tank system constructed of unprotected bare steel which has been out-of-service for more than 12 months [as adopted from Section 62-61.800(2)(b), F.A.C.]

EPC has contracted with the DEP to administer the UST program in Hillsborough County. EPC also has independent authority under its enabling act, 84-446, Laws of Florida, as

amended, and has adopted by reference, in EPC Rules, Chapter 1-12, the UST rules of the DEP (since renumbered from "17-61" to "62-761").

UST systems may be taken "out-of-service" for a temporary period of time not to exceed two years, or must be permanently closed. However, F.A.C. 62-761.500 and 62-761.510 require bare-steel tanks which have been out of service for over a year to be retrofitted with additional safety equipment or permanently closed according to 62-761.800 F.A.C. Additionally, unmaintained UST systems must be properly closed within ninety (90) days of discovery, 62-761.800(2) F.A.C. The undisputed facts reflect that four of the Respondent's UST's are unmaintained and have not been properly closed. The UST's numbered as system "5", "6", "7" and "9" are bare-steel systems, which are currently not being used and subject to 62-761.500, and 62-761.510. Three of the tanks ("5," "6," and "7") have been out-of-service for over a year, and one has been out-of-service since at least October 21, 1997 ("9"). Tanks "5," "6," and "7," and "9" are all subject to the 62-761 requirement to be retrofitted or properly closed by December 31, 1995. None of these four tanks have been retrofitted for future use. None of these four tanks have been properly closed.

"Closure" requirements for UST systems are set out in 62-761.800 F.A.C. As part of any permanent closure of a UST system, a closure assessment must be made in order to determine if a release has occurred, 62-761.800(3) F.A.C. The report of a closure assessment must be prepared and submitted to DEP or the administering local agency within 60 days after the closure of the UST system. If the closure assessment indicates the presence of contaminated soil and/or groundwater, the owner or operator of the UST facility is required to take corrective actions and to remediate the contaminated soil and/or groundwater. The actual closure of the system also consists of removing all liquids and accumulated sludge from the tanks, filling the tanks with solid inert material sufficient to prevent a structural collapse of the closed system, or removal of the tanks, 62-761.800(2)(d) F.A.C. None of these actions have been completed.

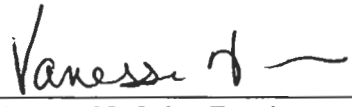
RECOMMENDATION:

Based on all of the forgoing enumerated undisputed facts and conclusions of law reflecting the failure of this facility to comply with the applicable environmental regulations it is recommended that the Commission enter a final order finding that the Appellant, William M. Chiles, has violated Chapter 1-12 of the Rules of the Commission and section 17 of the Hillsborough County Environmental Protection Act as more particularly described herein, by

improperly operating and failing to properly retrofit or close the subject underground Storage Tank Systems at the facility. Moreover it is recommended that the Commission's final order include a provision requiring the Appellant be responsible for the proper closure of the facility all pursuant to the approval and requirements of the Commission and the above cited regulations.

Respectfully submitted,

Dated: July 13, 1998



Vanessa N. Cohn, Esquire
Hearing Officer for
Environmental Protection Commission
of Hillsborough County
Cohn, Cohn, Singer, Bianco and Hendrix, P.A.
Post Office Box 3424
Tampa, Florida 33601

xc: Vernon R. Wagner, Esquire
William M. Chiles