

Memorandum

DATE: October 9, 2009
TO: Palm Beach County NPDES Permittees
FROM: Alan Wertepny
REF. NO. A8045.01
SUBJECT: Minutes of NPDES Steering Committee Meeting held on September 16, 2009

I. Attendees/Introductions

Approximately 28 of the 41 co-permittees were represented at the September 16, 2009 NPDES Steering Committee meeting. Steering Committee members present included: Laurent Van Cott (Chair), Jay Foy (Vice Chair), Randal Krejcarek (Secretary), Dan Beatty (Member), Karen Brandon (Member), Bonnie Finneran (Member), and Tony Puerta (Member). A copy of the sign-in sheet is available upon request.

II. Administrative Activities

- a. **Approval of June 10, 2009 Meeting Minutes** – A motion was made by Jay Foy to approve the minutes, seconded by Dan Beatty, and approved by the Steering Committee.
- b. **Education Sub-Committee Update** – The Sub-Committee created several versions of the logo “Sam” to place on various materials for distribution to the public to fulfill education requirements under the NPDES permit. The Steering Committee previously directed the Attorney, Peggy Wood, to investigate cost and registration requirements with the State of Florida. The Attorney reported that the Florida Statutes defined logos as service marks and are registered with the Florida Department of State Division of Corporation. The cost for registering each logo is \$87.50 and once registered the logos provide protection from infringement for a term of five (5) years with the options of renewing for additional five (5) year terms. Under Florida Statutes if the logos are misused the Owner may bring a civil action to enjoin the misuse and recover damages. Under Florida Statutes it appears that the NPDES Steering Committee is not an appropriate entity to register the logo. However, NPBCID does qualify and could register the logo on behalf of the Steering Committee. The Attorney presented to the Steering Committee several options for consideration. These included an informal or oral agreement, a Memorandum of Understanding, a formal agreement, or the formation of an entity to hold and manage the logos via Interlocal Agreement. These alternatives would require determining who may use the logos, which entity is responsible for registration of the logos, the policies for use of the logos, and

which entity may bring actions for infringement of the logos. After some discussion by the Steering Committee, the Committee decided not to proceed with registration of the logos.

- c. **Guidance Document for Preparing Monitoring Plans** – FDEP has finalized a monitoring plan guidance document. It is available on FDEP’s website. There are no substantial changes to the guidance documents from the drafts that were previously reviewed and for which comments were provided. In our next permit cycle, The Committee will submit a monitoring plan following the guidelines in this document with the reapplication with the 4th Year Annual Report. According to FDEP’s NPDES Consultant our next permit cycle (Draft of the 3rd Term Permit) is on the Administrator’s desk waiting to be signed. It is anticipated that we may receive this draft within one (1) to two (2) months. As a result, it is also anticipated that our current monitoring program may remain in effect for about five (5) years.
- d. **Florida Water Quality Policy Update** – The Florida Stormwater Association has been actively following three water quality related policy programs that may impact our NPDES program. These include the statewide stormwater treatment rule, numeric nutrient criteria, and classification and designated use refinement. Adoption of the new statewide **Stormwater Treatment Rule** is scheduled for July 1, 2010 and will include a treatment standard for total phosphorus (TP) that may be “the lesser of at least 85% average annual nutrient reduction... **OR** post-development nutrient load not exceeding pre-development nutrient load”. Pre-development TP will be based on vegetated communities and soil types. For any impaired water bodies; identified through the TMDL Program, the standard will be a net improvement to TP or Total Nitrogen.

Numeric Nutrient Criteria – EPA has entered into a settlement agreement with environmental groups to establish numeric nutrient criteria (total phosphorus and total nitrogen) for regions including the State of Florida. EPA’s schedule is to publish criteria in January 2010 with adoption scheduled for October 2010. At some time after adoption the criteria will impact all entities with NPDES permits (MS4, industrial facilities, and municipal wastewater treatment facilities). The Florida Water Environmental Association Utility Council (a group of more than fifty Florida Utilities) has filed a “Motion to Intervene and Hold Proceeding in Abeyance” in the matter of Florida Wildlife Federation, Inc., et. al v. Jackson, et. al, Case No. 4:08-cv-00324-RH-WCS, in the United States District Court for the Northern District of Florida, seeking to halt the requirement to establish numeric nutrient criteria. Establishment of numeric nutrient criteria would expedite development of water quality based effluent limits for wastewater facilities that discharge nutrients to State surface waters. It would also help FDEP identify waters impaired by nutrients and provide water quality restoration targets for Total Maximum

Daily Loads. FDEP has put on hold its plan to establish its own numeric nutrient criteria pending the outcome by EPA and Florida Utility Association.

Classification and Designated Use Refinement – The Florida Stormwater Association has filed a petition with the Environmental Regulation Commission requesting rule-making be initiated to refine Florida's system of classifying water bodies and designating their use. Most of Florida's waters are class 3, whether they are springs, natural lakes or rivers, or man-made canals. With this broad classification, local governments are often forced to allocate scarce financial resources to make water quality improvements to conveyance facilities that typically have little human or environmental benefit. Proposed classification revisions will add several new classes of waters based on their designated use for human and aquatic life. Upon adoption of the rule, no water would be moved to a different class immediately. The Rule allows petitions to reclassify water bodies on a case by case basis with the approval of the Environmental Regulation Commission and eventually EPA. Resolutions in support of revising Florida's surface water classification system have been executed by nine (9) of our co-permittees and several other special districts in Palm Beach County. All co-permittees are encouraged to consider Resolutions of Support. Note that the Environmental Regulation Commission will be considering action on this issue in the next couple of months.

- e. **TMDLs – List of Impaired Waters** – FDEP has published its verified list of impaired waters for the Loxahatchee Group 2 Basin. The list contains impairment for nutrients based on exceedances of chlorophyll-a in the Loxahatchee River and the C-18 Canal. A copy of the verified list is available on the FDEP website and was also distributed to all attendees. FDEP is holding a public meeting on Monday, September 28, 2009, to present the draft list of impaired waters for the Group 3 Basin (Lake Worth Lagoon - Palm Beach Coast). At the time of our meeting, the draft list of impaired waters was not available. Once it becomes available, a copy will be emailed to all co-permittees.
- f. **FDEP's New Administrator** – The new administrator for the NPDES Stormwater Program will be Eric Livingston who will start his new position on October 1, 2009.

III. Demonstration on Abtech Industries Products – Smart Sponge – Mark Kuyawa, Southeast Regional Sales Manager, for Abtech provided a presentation on the Smart Sponge product. Abtech Industries has developed a product called Smart Sponge to help treat stormwater runoff. Smart Sponge is a filter which has the ability to remove hydrocarbons (oil and grease), trash, debris, sediments and other contaminants from stormwater runoff. It can be retrofitted into existing stormwater collection systems (inlets, catch basins) or included in new construction projects. It absorbs approximately 3 times its weight, and

retains pollutants, and once absorbed, the material is converted to a stable solid that can be easily disposed. Installation costs range from \$400 to \$1,200 per inlet. More information can be obtained by contacting Mark Kuyawa at Abtech Industries (phone number (722) 828-9925, email mkuyawa@abtechindustries.com).

IV. Next Steering Committee Meeting

The next Steering Committee Meeting is tentatively scheduled for Wednesday, October 21, 2009, 9:00 a.m., at Northern Palm Beach County Improvement District. The purpose of the meeting will be to discuss the draft of the third term permit (if available) and the schedule for the 7th Year Reports.

I believe these minutes accurately reflect the discussions and decisions of this meeting; however, additions and/or corrections will be accepted in writing within seven (7) days of the date of these minutes.

If you have any questions, please call me at 683-3113, extension 231.

ADW:jeh

Copies: All Permittees
Christine Garrow