

# **Internal Review of and Recommendations for the Memorandum of Understanding between EPC and the Southwest Florida Water Management District December 2007**

The Memorandum of Understanding (MOU) between EPC and the Southwest Florida Water Management District (SWFWMD) was executed in October 2005 in order to coordinate activities and eliminate duplication or unnecessary expenditures wherever possible.

The Wetlands Hybrid included SWFWMD Coordination. As part of that effort, an internal staff review of the MOU was performed. In September and October 2007, both senior management and field scientists from each agency met to review the MOU language and to determine if each agency was adhering to the terms of that agreement. Following are the findings of that audit:

## **1. WETLANDS DELINEATIONS:**

- a. SWFWMD and EPC will accept formal determinations of the landward extent of wetlands. Both agencies are currently in compliance with this and continue cross training exercises to insure consistency.
- b. SWFWMD will provide petitions for formal wetland determinations and both agencies will provide copies of surveys and other documentation. This is done routinely.

## **2. COMPLAINT INVESTIGATION:**

- a. SWFWMD will, within 24 hours of receipt, forward all complaints in Hillsborough County to EPC for investigation. Upon request, EPC sends copies of completed investigations to SWFWMD. According to the EPC database, the number of complaints forwarded from SWFWMD is minimal and they are forwarded in a timely manner. Most complaints are called directly into EPC.
- b. EPC will investigate all referred complaints and issue Warning Notices or enforcements documents as appropriate and provide copies to SWFWMD within 14 days. SWFWMD has indicated that

they only wish to receive these documents upon request, whereupon, copies are provided immediately.

- c. SWFWMD may independently pursue enforcement in any case. However, both agencies effectively use resources and manpower to coordinate cooperative resolution of joint enforcement cases.

### 3. MITIGATION COMPLIANCE MONITORING:

- a. SWFWMD will delegate to EPC responsibility for monitoring compliance with Environmental Resource Permit (ERP) mitigation requirements for all wetland impacts in Hillsborough County. Since the MOU was signed, six such sites have been transferred to EPC and all compliance monitoring, including onsite inspection, report review and correspondence is performed by EPC staff. The number of transferred sites is low due to the time it takes to get associated permits, to complete project construction and to complete mitigation site construction. The mitigation sites are not transferred to EPC until SWFWMD is satisfied that they have been properly constructed. EPC staff has also taken responsibility (with SWFWMD approval) for several sites where mitigation was approved prior to the MOU.
- b. SWFWMD will include EPC in any discussions regarding the development and implementation of District-wide mitigation success criteria guidelines. These guidelines have not been discussed to date but SWFWMD has agreed to include EPC in any future discussions.
- c. SWFWMD and EPC will conduct an initial joint compliance inspection within 45 days of completion of construction of the mitigation site to be transferred to EPC. These joint inspections are typically performed well before the established deadline.
- d. Upon SWFWMD transfer of mitigation monitoring requirements, EPC will provide acknowledgement in writing. This is accomplished through email.
- e. EPC provides SWFWMD with quarterly status reports for all mitigation sites being monitored by EPC. Although the MOU was signed in October 2005, the first mitigation site was transferred to EPC in January 2007 due to the time lag between permitting and completion of construction. Several others were transferred in the

summer of this year. Therefore, the first quarterly report was sent to SWFWMD on September 1, 2007 and the second one was sent in December 2007.

- f. EPC may make minor modifications to permitted mitigation plans through correspondence with the permittee. This correspondence is automatically copied to SWFWMD and indicated on the quarterly status report.
- g. Major modifications require written approval by SWFWMD. To date, no major modifications have been addressed.
- h. EPC shall provide written notice to SWFWMD upon determination that a mitigation site is successful and ready for release. To date, this has not occurred for any mitigation sites transferred under the MOU.
- i. Neither agency may release or modify a Conservation Easement required by the other agency without written approval by the other agency. This happens rarely. In 2007 EPC notified SWFWMD that it intended to change a Conservation Easement and SWFWMD approved the change in writing.
- j. For projects permitted prior to the MOU, EPC and SWFWMD will strive to coordinate site investigations and meetings regarding mitigation sites that are out of compliance. The agencies are doing joint field inspections of these sites and developing joint recommendations for getting the sites back into compliance.
- k. SWFWMD may retain responsibility for compliance of specific mitigation sites upon written notification to EPC. To date, this has not occurred.

#### 4. PRE-APPLICATION MEETINGS:

SWFWMD and EPC will notify applicants that representatives of the other agency may attend pre-application meetings unless the applicant objects. EPC will provide this notification through the Applicant's Handbook.

#### **RECOMMENDATIONS FOR FUTURE CONSIDERATION:**

EPC staff is attending SWFWMD's regularly scheduled ERP Policy and Procedure meetings to improve coordination and consistency between the agencies. This gives both agencies an ongoing forum to address issues as they arise.

- EPC supervisors have attended Tampa Service Office supervisory staff meetings, and will continue to attend on at least a quarterly basis, to discuss issues of mutual interest. These topics include but are not limited to: staff coordination, cross-training, policy issues, potential for recommendations to update the MOU and compliance issues.
- SWFWMD does not approve wetland surveys until the permit is issued. This can delay EPC construction plan approval, which cannot be completed without an approved survey. This topic is scheduled for discussion at an upcoming Tampa Service Office supervisory staff meeting.
- The MOU requires EPC to provide SWFWMD with closed complaint investigations if the complaint is unsubstantiated or a minor violation that can be corrected without issuing a Warning Notice. Staff from both agencies would like to delete that requirement.
- In the future, EPC would like to provide SWFWMD with a monthly electronic report on Warning Notices issued which would be generated from the EPC database.
- District-wide mitigation success criteria guidelines have been identified as an issue to be addressed at upcoming Tampa Service Office supervisory staff meetings.
- Any potential rule changes will be addressed at the Tampa Service Office supervisory staff meetings to determine if changes to the MOU may be required.
- The MOU will need to be modified to incorporate the recent change to Chapter 1-11, Rules of the EPC regarding agricultural activities.

