

Southwest Florida Watershed Council, Inc.

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FGCU Study Identifies Nitrogen Source in San Carlos Park

The substantial growth in Southwest Florida has deteriorated the water quality in Estero Bay, a Florida Outstanding Water, and its tributaries. Located near Estero Bay, San Carlos Park is a large single family residential community where many homes are still on individual septic systems. The San Carlos Park runoff drains via Mullock Creek into the Estero Bay. The source of Nitrogen in the outflow from San Carlos Park is currently being studied by Dr. Nora Egan Demers of Florida Gulf Coast University. Dr. Demers hopes to create a clearer understanding of the factors that are contributing to



Pictured Above: Tosha Brown, FGCU Student initiated study with Dr. Demers.

high levels of Nitrogen in San Carlos Park. Specifically, Dr. Demers research will identify what percentage of nitrogen is attributed to septic versus runoff from San Carlos Park. This research will aid in the creation of BMP's and policies that may reduce nitrogen and increase water quality. Dr. Demers research originated through the FGCU student, Tosha Brown's need for a Senior research project and has grown into this influential project. Dr. Demers research is possible through a grant from the SW FL Watershed Council of \$3,100, and partnerships with Lee County Utilities and Lee Environmental Labs.

The Northern Everglades Bill

The Northern Everglades Bill Substantially amends the former Lake Okeechobee Protection Act. The existing Phase II of the Lake Okeechobee Protection Plan is modified to require that the plan reflect the following: new measurements, additional detail on project schedules, and identification of additional types of projects to be considered, and the creation of the Total Maximum Daily Load (TMDL) program. In addition, the modified plan is required to be submitted to the Legislature for ratification during the 2008 Regular Season. The bill creates two new water protection programs: one for the Caloosahatchee River Watershed and the other for the St. Lucie River watershed. Each proportion program contains a series of sub-component programs: a watershed protection plan, a watershed construction project, a watershed pollutant control program, and a watershed research and water quality monitoring program. Requirements of the programs, goals, and objectives have also been created. Additional components:

- Direct the expedited implementation of nonpoint source best management practices.
- Permit the DEP or the District to require compliance with applicable state environmental laws.
- Allow the awarding of grant funds to projects that make use of private lands or lands held in trust for Indian tribes.
- Require an assessment of the current water management practices within the watersheds.
- Prohibit the DEP, after December 31, 2007, from authorizing the disposal of domestic wastewater residuals within the watershed unless the applicant can demonstrate that such disposal will not add to phosphorus loadings in Lake Okeechobee or its tributaries.
- Direct the Department of Health to require all entities disposing of sewage within the watersheds to develop and submit an agricultural use plan that limits applications based upon nutrient loading.
- Direct the department of Agriculture and Consumer Services to initiate rulemaking to require entities within these watersheds that land-apply animal manure to develop resource management system level conservation plans.

Judge Declares State Violations of Clean Water Act

A federal judge ruled Friday that the state's practice of back-pumping polluted water into Lake Okeechobee without a permit violates the U.S. Clean Water Act. U.S. District Judge Cecilia M. Altonaga ordered the South Florida Water Management District to apply for permits "forthwith" but did not set a deadline, most likely because even the judge acknowledged in a December finding that there was no quick fix to the decades-old practice.

The ruling has no real teeth because it does not preclude the state from back-pumping water into the lake tomorrow should the need arise. A permit request would eventually go through the state Department of Environmental Protection.

"If and when we're asked, we'd be happy to evaluate that request to make the best decisions as to whether or not back-pumping should take place," said DEP spokeswoman Sarah Williams. Since the 1970s, Florida water managers have pumped water from canals carrying pollutants from adjacent sugar-growing lands and cities into the lake for flood control and to bolster water reserves that could be used during drought. Water managers say the method is crucial to keep cities from being inundated and that a lengthy permitting process would only serve to slow Everglades restoration and could put the state's entire flood control system in jeopardy. The district will likely appeal the judge's ruling.

With South Florida suffering from an unprecedented drought, the dis-

trict as recently as Thursday heard proposals to begin back-pumping into the lake to help farmers who have seen millions of dollars in losses because of water restrictions.

Several groups, including the Miccosukee Tribe of Indians, which considers the lake and the Everglades part of its ancestral home, sued the district, claiming that back-pumping of polluted water into the lake was putting Everglades restoration in jeopardy.

The groups also claimed the polluted water contains harmful nitrogen which creates toxic algae blooms and byproducts that can be dangerous to humans. Lake Okeechobee serves as a backup drinking water supply for millions in South Florida. At 730 square miles, it is the second-largest freshwater lake in the continental U.S.

"Plaintiffs have met their burden of showing the potential for irreparable harm," Altonaga wrote in Friday's ruling.

The district "has consistently and energetically resisted obtaining the permits the Clean Water Act requires for these Lake Okeechobee pumps," said Miccosukee attorney Dioné Carroll. "This is a big victory for a beautiful Lake that has waited far too long for clean water."

David Guest, lead attorney for Earthjustice which helped argue the case on behalf of the plaintiffs, applauded the ruling, noting it gave merit to the claim that "there's a human health risk at play here."

"The water management district has been acting like back-pumping is just fine, and they now have a judgment against them saying they are required to change their ways," Guest said, adding that the district should find other places to store water for agriculture and flood control. In January, the U.S. Environmental Protection Agency said it may seek an amendment to the Clean Water Act, arguing that the Florida case and others have created confusion over when and where permits are required. Some judges are interpreting the law in a manner Congress never intended, the EPA contends.

"We stand ready to work with Congress if Congress chooses to amend the Clean Water Act to clarify when a permit is needed and when it isn't," Benjamin Grumbles, EPA's assistant administrator for water, said then in an interview with The Associated Press.

EPA spokesman Dale Kemery said Friday the agency was still working toward clarification, but noted the "glacial pace at which Congress moves."

"We will continue to manage our waters in the public's interest and remain committed to protecting our natural resources, our economy and the health, welfare and safety of Florida's communities," the district said in a statement.

By: The Associated Press
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SFWMD Lower West Coast Projects

The South Florida Water Management District (SFWMD) announced today the allocation of \$3.4 million to support 16 projects along Florida's lower west coast that will improve water quality in the Caloosahatchee River and estuary. The local projects, ranging from neighborhood sewer system improvements to treatment marshes and sediment removal, will be completed over the next six months to provide immediate pollution-control measures. "Today's action underscores the South Florida Water Management District's commitment to working with our local partners to restore and protect the health and vitality of the Caloosahatchee River and its marine estuary," said SFWMD Governing Board Chairman Eric Buermann. "This funding will expedite local projects to bring early environmental benefits while the State and local governments begin developing a long-term and comprehensive plan to restore Lake Okeechobee and the coastal estuaries as a part of the northern Everglades initiative."

The SFWMD Governing Board today approved more than \$2.7 million toward the following projects: Cape Coral Stormwater Improvements, City of Cape Coral, \$893,500—The project will replace older stormwater inlets with newer inlets designed to assist stormwater management. The new inlets facilitate the filtration of nutrients and pollutants and reduce the effects of the first flush of stormwater by retaining this water within the City of Cape Coral's swale system. The new inlet structures will reduce the

effects of the first flush of stormwater by retaining this water within the City of Cape Coral's swale system. The new inlet structures will reduce residential and road runoff that can impact waterways with fertilizers, pesticides, oils and heavy metals. Sanibel Centralized Sanitary Sewer Expansion, City of Sanibel, \$500,000— This project is replacing residential septic tanks and expanding the City of Sanibel's sanitary sewer system to improve water quality in Clam Bayou. Powell Creek Algal Turf Scrubber, Lee County, \$427,000— This pilot project will operate a mobile unit of the Algal Turf Scrubber system for one year. The Algal Turf Scrubber is an alternative biotechnology designed to optimize and create conditions that maximize nutrient uptake. The project is estimated to remove of 200 to 1,000 pounds of phosphorus and 500 to 8,000 pounds of nitrogen for every acre of process area.

North Fort Myers Surface Water Restoration Project, Lee County, \$300,000—This project will construct and operate a surface water management system to serve a 2,400-acre project area. The project involves channel improvements, construction of diversion weirs and the planting of shallow water emergent aquatic plants to facilitate longer time for nutrient uptake. Construction of the weirs will capture sediment and slow velocities.

Billy Creek Filter Marsh, Phase 1 (exotic plant removal), City of Fort Myers, \$308,000—The project creates a filter marsh system to remove nutrients from Billy Creek. The District is providing funding toward the design and construction of the filter marsh system, preservation of jurisdictional wetlands, and creation

of a lake. The first phase of the project will remove exotic plants prior to construction of the water quality components. Manuel's Branch East and West Weirs, City of Fort Myers, \$240,000—This flood-control project will install two weir/water control structures within existing canal sections. The weir structures will create an upstream canal storage feature to reduce the rate of stormwater flowing downstream and decrease peaking effects of past stormwater management practices. "The way the water is treated and managed locally has a large effect on the health of the Caloosahatchee River and estuary," said SFWMD Executive Director Carol Ann Wehle. "The funding allows local governments to leverage resources and take the necessary steps to improve the quality of water from local sources."

Funding for additional local projects include:

- Lee County Kickapoo Creek Stormwater System Analysis, \$135,000
- City of Sanibel Sewer System Expansion, Phase 1, \$120,000
- City of Sanibel Sewer System Infiltration/Inflow Improvements, \$40,000
- Town of Fort Myers Beach Stormwater Management Study, \$60,000
- City of Fort Myers Ford Canal Filter Marsh, \$30,000
- City of Fort Myers Manuelos Branch Canal Silt Reduction Structure, \$15,000
- Charlotte Harbor National Estuary Program Water Quality Spatial Summaries/Web Site, \$11,000.

By: Rae Ann Wessel

Charles J. Dauray Speaks at Watershed Council

Charles Dauray, recently appointed Governing Board Member for the South Florida Water Management District spoke at the June 21, 2007 meeting of the Southwest Florida Watershed Council. After a warm welcome from Watershed Council Chair John Cassani, Mr. Dauray spoke about his background working as the President and Chairman for The College of Life Foundation and some of his previous experience working with other organizations,

such as the Marine Habitat Foundation and the Save Our Everglades Referendum Steering committee. Mr. Dauray spoke enthusiastically about the complexity of water quality issues. Mr. Dauray also spoke about his commitment as a member to the governing board, and briefly about water quality issues in Lee, Charlotte, Collier and Hendry counties. After speaking, Mr. Dauray answered several questions from the audience regarding the Northern Everglades Restoration Bill.



LOER

The Lake Okeechobee & Estuary Watersheds Basin Rule Plan (LOER) was presented to the public on October 10, 2005. The LOER Plan included revisions to the Environmental Resource Permit (ERP) requirements for basins draining to Lake Okeechobee, Caloosahatchee and St. Lucie estuaries. The primary purpose of this component is to reduce phosphorus loading from new development in the watershed. The Special Basin Rule is currently known as the Lake Okeechobee and Estuary Watershed Basin Rule, which was authorized by the Governing Board on February 8, 2006. The Special Basin Rule supplements the existing ERP requirements for projects within a specific basin boundary. The Northern Everglades Legislation uncertainty in 2007 delayed implementation of the Basin Rule. The implementation of the Northern Everglades legislation requires a protection program for the Caloosahatchee & St Lucie Watershed, and the Lake Okeechobee Watershed. The two Watershed Protection Programs are being prepared separately and will likely have different targets identified. The target loads for each watershed basin rule will be based on the Watershed Protection Programs.

Current Special Basin Rule Schedules:

- Lake Okeechobee Watershed Schedule
 - Watershed Protection Plan: February 2008
 - Basin Rule Adoption: October 2008
- Caloosahatchee & St. Luce Schedule:
 - Watershed Protection Plan: January 2009
 - Basin rule Adoption: October 2009

Mid Point Memorial Parkway Tree Planting Project

The Southwest Florida Watershed Council has aided in the funding of a project that will improve the scenery along the Mid Point Memorial Parkway in Cape Coral, and will reduce the traffic noise and improve the water and air quality through planting 1,000 trees in late spring of 2007. The project Chairman, Russell J. Ringland is working with the Rotary of Cape Coral, the Watershed Council and other organizations to provide assistance and volunteers for the planting project. Of the 1,000 trees 800 will be tree seedlings. The goal of the project is to raise \$5,000 dollars to purchase trees and endow a fund for future tree planting. The main benefits of this project will result in clean air and water quality in the Mid Point bridge area and reduced noise pollution for area residents. The dates for this event are May 12 & 26, and June 2nd, 9th, 16th & 23rd.