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Volume 33, Number 2

Jupiter nano plant 5

The town of Jupiter has built a new nanofiltration plant that features a unique design that saves 30 percent in the amount of energy needed to drive the membrane process compared to a conventional plant. As a result, the utility will save \$100,000 annually or \$3 million over the life of the plant.

Restoring Lake O 6

According to Audubon of Florida, the latest progress report on the Lake Okeechobee cleanup doesn't give the water management district officials much to brag about.

Miami waterway cleanup 7

Miami-Dade officials are winding up the permitting process and trying to find the funds to start a \$20 million project to cleanup two polluted waterways that are major tributaries of the Miami River.

Jax Superfund 9

Cleanup could soon begin on a former fertilizer and pesticide plant on the western bank of the St. Johns River in Jacksonville. Funding will be provided by the federal Superfund program and from the pocketbook of the property owner, Tronox.

Gimpelson on RBCA 9

Lessons can be learned when risk-based corrective actions are rejected as well as when they are accepted. This month's column by Laura Gimpelson, PE, discusses RBCA plans that were rejected by regulators or required a court order to be accepted by stakeholders.

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Got a story lead?

Got an idea for a story? Let us know. Like to submit a column for consideration? Fire away. And don't forget to fill us in on your organization's new people and programs, projects and technologies—anything of interest to environmental professionals around the state. Send to P.O. Box 2175, Goldenrod, FL 32733. Call us at (407) 671-7777; fax us at (407) 671-7757, or email us at info@enviro-net.com

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Photo by David Morse

The Northwest Florida Water Management District recently completed its largest planting of trees and groundcover in a single year. For its ongoing reforestation and groundcover restoration, the Division of Land Management and Acquisition contracted to hand plant 2,827 acres of pine, hardwood and wiregrass habitat in Bay, Escambia, Liberty, Santa Rosa and Washington counties. Above, a planter sets hardwood trees at Womack Creek in Tate's Hell State Forest.

State of the Biz:

Improvements predicted for industry in 2011

MELORA GRATTAN

For most environmental professionals, 2010 was not quite the rebuilding year they had hoped for after a rough year in 2009 hunkered down and holding on for their business lives. While there was some modest growth, most folks use adjectives such as "flat, challenging, crazy," and just plain "not good" to describe the past year.

However, many are pointing to signs of a possible turnaround such as more significant projects that were temporarily put on hold starting to reemerge. At the same time, no one is expecting the business to bounce back in a hurry.

Mark Swallow, president and principal of Golder Associates Inc. in Jacksonville, puts it like this: "2009 was survival; 2010 was stability; and 2011 is the beginning of growth and overall success again. We won't be running at full steam, but hopefully it will be at a faster pace than 2010." As a whole, Swallow foresees the industry taking a "baby step" toward improvement that could translate to growth in the neighborhood of 3 percent during 2011.

One thing is for certain, with continuing economic challenges, a new state administration, and regulatory firestorms such as the federal numeric nutrient criteria, the next few years will not be boring.

In Florida, where Golder employees about 130 people, growth was fairly flat. The most stable market segment for them is waste management, which didn't grow or shrink. Their other Florida markets

include land development, and insurance and property transactions.

"It was almost a perfect storm in that the areas most affected by the recession were the ones we were in," Swallow said. "These (Florida) markets will take longer to rebound than some of the other markets in other states."

Golder's Florida operations did show some improvement during the fourth quarter of 2010 in areas such as

solid waste and manufacturing. "A lot of clients in manufacturing were holding on to capital and, as things stabilized, some of the environmental remediation programs were coming back and we were getting involved with those again," Swallow said.

The business slowdown may have

THE BIZ
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New DEP chief expected to bring business-savvy approach to agency

By PRAKASH GANDHI

He may be a newcomer to state politics, but those who know Herschel Vinyard—the man tapped as the new head of Florida's leading environmental agency—say he's more than qualified for the important job.

Florida's newly elected Gov. Rick Scott appointed Vinyard, director of Jacksonville-based BAE Systems Southeast Shipyards, as secretary of the Florida Department of Environmental Protection.

"He is a man of high integrity who is also a savvy business person and is easy to deal with," said Fred Leonhardt, an environmental and land use attorney with GrayRobinson PA in Orlando, who

says he has known Vinyard "off and on" for about five years.

An environmental attorney, Vinyard served as vice president of Jacksonville Atlantic Marine Holding Co. before the company sold its Jacksonville operation to international defense contractor BAE Systems last year.

Vinyard serves on the Jacksonville Port Authority's board of directors and is a member of the Florida Chamber of Commerce and the Manufacturers Association of Florida.

Vinyard also served on Gov. Scott's economic development transition team.

"Herschel is a man of deep environmental knowledge and practical business experience," Gov. Scott said in a statement.

Leonhardt said he is very excited about the appointment of Vinyard.

"To me, it is not surprising that Gov.

VINYARD
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Herschel Vinyard

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EPA subject of lawsuit to set stricter lead limits in environmental waters

Staff report

In November, three environmental organizations brought suit against the U.S. Environmental Protection Agency because it denied their petition to ban lead in hunting ammunition and fishing gear.

In 1994, the EPA documented that lead from ammunition and fishing gear, primarily sinkers, has adverse effects on wildlife, including birds and fish. The agency estimates that between 10 and 20 million animals per year are poisoned by lead from these sources.

The three groups filing suit include the Center for Biological Diversity, Public Employees for Environmental Responsibility, and a hunters group, Project Gutpile. They petitioned the EPA, under the authority of the Toxic Substances Control Act, to ban lead in ammunition and fishing gear.

In August, 2010, the EPA declined to regulate lead ammunition saying that ammunition fell outside TSCA's definition of chemical substances.

In November, the agency declined to regulate lead in fishing tackle for different reasons. The agency said that the group's petition for regulation of lead in fishing tackle did not conclusively show that a ban was necessary to protect against unreasonable risk of injury to human health or

the environment. The Toxic Substances Control Act requires such a demonstration to justify rule-making.

The groups' report included more than 500 references from peer-reviewed scientific literature documenting widespread damage from lead in ammunition and fishing tackle.

Since the petition was filed, more than 70 organizations from 25 states have joined in supporting it.

The EPA's failure to ban lead, according to some sources, is a strategy adopted by the agency to avoid controversy with powerful political interests that include hunters and gun owners.

Supporters of a lead ban note that some states already ban lead in ammunition, with very little negative influence. They note that even the U.S. military is researching alternatives to lead in ammunition.

Hexavalent chromium in tap water. The EPA announced it will reexamine its standard for chromium in drinking water. The agency is forming a panel of experts to author a technical report by the end of summer, 2011.

The agency will also consider requiring public drinking water utilities to analyze for hexavalent chromium in drinking water.

Evaluating the risks of chromium in drinking water is complex because chromium exists in several chemical forms. Trivalent chromium is an essential trace element. Its ambient concentrations in food and water are not the issue.

Hexavalent chromium is the chemical form that has been linked to stomach cancer when inhaled as a vapor by industrial workers. It has not until recently been considered a significant contaminant in drinking water, nor has it been singled out as an analyte in drinking water analysis.

When chromium concentrations are reported at all by drinking water utilities, they are usually reported as total chromium.

EPA's decision to reevaluate the health risks of hexavalent chromium in drinking water follows the release of a report by the Environmental Working Group. This group commissioned its own hexavalent chromium analysis in drinking water samples from 35 large American cities.

They reported a geometric mean of 0.18 parts per billion in drinking water in 32 out of the 35 cities whose water was analyzed.

The top five cities had the following chromium concentrations: Norman, OK, 12.9 ppb; Honolulu, HI, 2.00 ppb; Riverside, CA, 1.69 ppb; Madison, WI, 1.58 ppb; and San Jose CA, 1.34 ppb. Miami was the only Florida city with reported water analysis. Hexavalent chromium concentrations in Miami water samples were 0.04 ppb.

In its report, EWG noted that its water analyses showed that most of the chromium present in drinking water is hexavalent chromium. The EPA's current standard for total chromium in drinking water is 100 ppb. That level is intended to prevent allergic dermatitis.

California's drinking water standard for total chromium is currently 50 ppb. A new water standard below 1 ppb will be intended primarily to reduce cancer risk, according to assertions in EWG's report.

The source of chromium in drinking water includes chromium from stainless steel, a preferred alloy. In most cases however, occurrence of hexavalent chromium in drinking water is more likely associated with its presence in the source water.

A 2004 study by the Water Research Foundation, found that hexavalent chromium was more likely to occur in drinking water systems that rely on groundwater wells.

EPA enforcement, compliance report.

In 2010, EPA enforcement and compliance activities prevented more than 1.4 billion pounds of contaminants and pollutants from entering the environment.

In its latest annual report of enforcement and compliance results, the EPA noted that the agency assessed more than \$110 million in civil penalties. It also obtained commitments from pollution emitters to spend as much as \$12 billion on cleanup, pollution controls and environmentally beneficial projects.

Reductions in water contamination totaled over 1 billion pounds, dominating the 1.4 billion contaminant total cited in the report. The remaining 400 million pounds of prevented contaminants were air contaminants.

The EPA says that these reductions will provide citizens economic benefits with a value between \$6.2 million and \$15 billion annually in the form of avoided health costs.

The EPA's 2010 efforts were notable for opening 346 new environmental crime cases. Two hundred and eighty nine defendants were charged, the largest number in five years. Of those charged, the agency obtained 198 convictions resulting in \$41 million of assessed fines and restitution.

DuPont hammered. DuPont has agreed to pay a \$3.3 million penalty for failure to notify the EPA of test results indicating substantial risk posed by chemicals in some of its products.

The penalty results from 57 alleged violations of the federal Toxic Substances Control Act. A provision of this law requires companies to inform EPA of substantial risk to human health and the environment derived from the company's own tests.

In May, 2006, DuPont told EPA that it failed to submit chemical toxicity studies on products under development for surface protection, masonry protection, water repellents, sealants and paints.

The EPA review determined that 57 of the studies included data suggesting that chemicals in these products pose a substantial risk to human health and the environment, and would therefore be subject to TSCA.

EPA delays new smog rules. The EPA has announced another delay in expected implementation of new smog rules. A new rule was widely expected to lower the current ozone standard from 75 parts per billion to a value between 60 and 70 ppb.

An EPA cost-benefit analysis found that lowering ozone exposure could save thousands of lives annually that would otherwise be lost due to asthma attacks and other respiratory ailments.

The price tag for businesses and local governments out of compliance with a new lower standard could be as high as \$90 billion annually.

Lisa P. Jackson, EPA's administrator, described the delay as necessary to get further interpretation of ozone's scientific and health effects studies.

This decision leaves in place Bush-era standards for smog. Critics of the decision to delay say it marks a departure from President Obama's stated commitment to reverse policies seen to favor industry at the expense of public health.

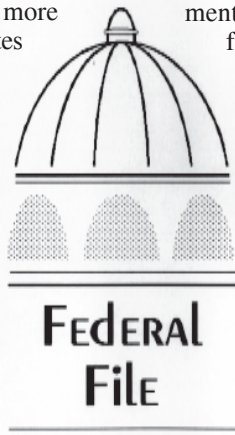
Administration defenders countered that a reasonable pause following a series of successful EPA efforts to update the nation's environmental policies does not constitute a reversal of administration priorities.

Some specifically note that in January, the Obama administration promulgated final rules on carbon dioxide emissions. Complying with those rules will also reduce smog emissions, these observers noted.

This is not the first delay by the EPA to update its smog rule. The most recent prior delay occurred in August, 2010. The EPA may release new smog rules in the summer of 2011.

FEDFILE

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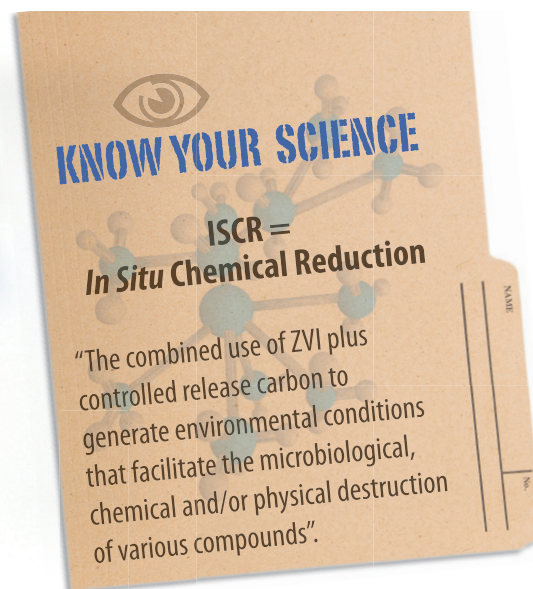


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Brooksville site could see more delays before cleanup begins

Staff report

Starting work on the cleanup of the former public works site in downtown Brooksville looked like it would finally happen after more than 20 years of testing and delays with the recent state approval of a remedial plan.

However, that plan could be challenged by the National Association for the Advancement of Colored People, which contends that Hernando County hasn't completed sufficient testing to ensure contaminants haven't migrated to nearby neighborhoods such as Mitchell Heights.

The county has conducted some tests in shallow parts of the soil in Mitchell Heights and purchased two of the homes there to avoid litigation. However, it should test deeper levels of the soil for contaminants that include arsenic and petroleum by-products, said a representative of the local NAACP organization.

An executive of the firm that conducted the testing said the county denied a recommendation to test a wider area outside the public works compound.

This company's remedial plan was rejected because it consisted of only erecting a fence and monitoring, according to the county. The approved plan, devised by Cardno TBE, includes excavating soil, using a chemical oxidant, maintaining concrete pads and monitoring.

The NAACP contends that this area and others in the county are victims of environmental racism, where polluting industries are located next to minority communities. A challenge could delay remediation for months.

Investigations on the site started in 2005 and the county has spent about \$3.3 million on testing, permitting, surveying and acquiring property since 2002. However, contaminants were known to exist there as far back as 1991.

Legal fees ordered in land-use case. Environmental groups that appealed a land-use ruling in Martin County were ordered to pay the opposing side's legal fees by two of three judges for the First District Court of Appeal. The third judge did not agree with the sanctions, saying it would set a bad precedent.

1000 Friends of Florida and the Martin County Conservation Alliance sued Martin County and the state Department of Community Affairs after the county changed the minimum lot size from 20 to 2 acres for western agricultural land spanning about 191,000 acres.

The first ruling by an administrative law judge found that there would not be urban sprawl or more development due to the change in lot size because open space would remain for features such as parks and the homes would be grouped together.

At the appeal, judges also said there would be no increase in development and the environmental groups would not be impacted, which meant they had no legal standing.

The groups disagree with these findings and say the sanctions could mean a reluctance to enforce the state growth management act, said Richard Grosso, an attorney representing the environmental groups.

Future action may include appealing to the Florida Supreme Court or asking the appeals court to hear the case again.

Power plant startup postponed. The December reopening of the Crystal River nuclear power plant was delayed due to additional structural integrity work and testing.

Progress Energy Florida has spent an estimated \$117 million on repairing cracks in a wall when steam generators were replaced in September of 2009.

The utility said it needed to tighten a series of vertical and horizontal tendons in the walls of the containment building and test it for structural integrity before operations could resume.

The Public Service Commission said the utility could pass along the costs to con-

sumers in their monthly bills.

Soil smothers smoldering landfill. A Bay County landfill that was largely on fire is now closed according to the plans of state environmental officials.

Officials with the state Department of Environmental Protection used thermal imaging equipment to determine that nearly 80 percent of the site was involved in the fire.

The site's owner had died and DEP had to obtain permission from a judge to enter the property to address the fire.

The agency hired Eagle-SWS to close the landfill, which included covering it with 18 inches of clay and six inches of soil, then seeding it with grass.

In addition, the closure included measures to keep stormwater from entering wetlands and monitoring of area groundwater.

The county currently has a ban on landfills and this site will most likely never be used as a landfill again.

Stauffer site cleanup nears finish. The site of a Stauffer Chemical phosphate processing plant could be finished with remediation by next year—20 years after it was nominated for inclusion on the federal Superfund list of contaminated sites.

Contamination at the plant that was closed 30 years ago stemmed from the disposal of phosphate ore that contain pollutants including arsenic, beryllium and radium-226 into slag pits that had no liners near the Anclote River.

The waste was put in two piles on opposite ends of the property and capped. Federal officials said it would have been more dangerous to move the materials.

An initial plan to stabilize some of the contaminated materials by mixing them with cement was abandoned for building a wall in the shape of a bowl from PVC plastic to prevent leaching into the groundwater. A clay barrier was installed under this bowl. In addition, area ponds were capped.

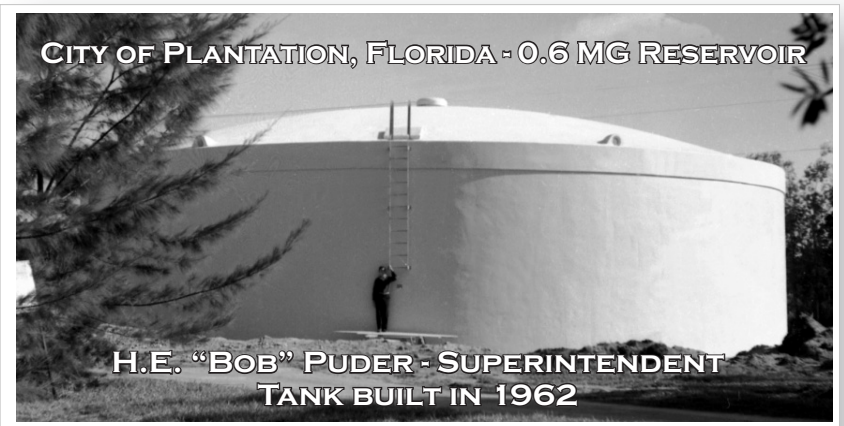
A year or two of monitoring will deter-

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Florida Notes



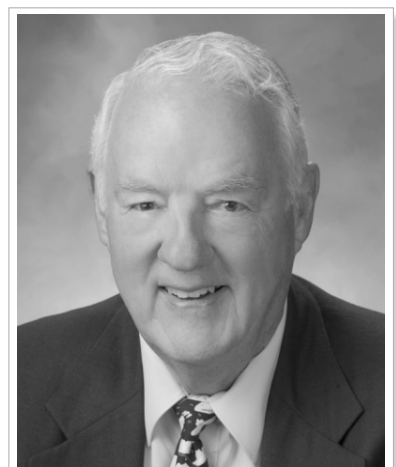
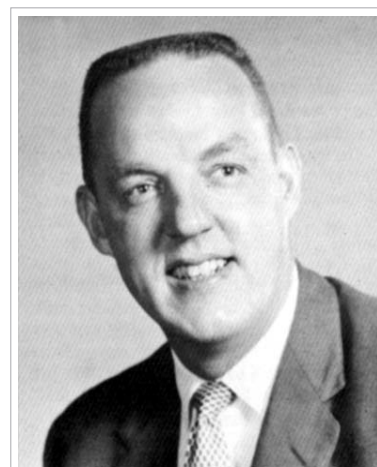
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FSA, League of Cities sue over EPA numeric nutrient criteria rules

Staff report

Last month, the Florida Stormwater Association and the Florida League of Cities Inc. filed litigation suing federal environmental officials over new numeric nutrient criteria regulations for Florida.

Filed in the Pensacola Division of the U.S. District Court for the Northern District of Florida, the lawsuit asks the court to vacate the NNC rule and send it back to the U.S. Environmental Protection Agency to devise something that is consistent with

the law.

In addition to calling the new rules arbitrary and capricious, the lawsuit claims the rules are not based on scientific methods; used faulty assumptions; contain criteria that are generally impossible for stormwater and wastewater systems to attain given current technologies; and failed to follow the provisions of the Regulatory Flexibility Act, which require agencies to specifically consider the impacts of proposed regulations on small local governments and businesses.



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Innovations in Water Monitoring

"We all want clean water," said Rebecca O'Hara, director of legislative affairs for the Florida League of Cities. "However, the EPA's mandates seem like they will do more to harm Florida's local government taxpayers than provide real results."

Costs for city and county stormwater treatment and wastewater systems are expected to increase by \$1 to \$3 billion annually due to the NNC, according to an independent study conducted for the Florida Water Coalition by Cardno ENTRIX in late 2010.

"We agree that all persons and all Florida governments have a responsibility for improving water quality in Florida," said Kurt Spitzer, executive director of the FSA. "But we need to be very certain of the validity of the underlying science and methodologies used to prepare the rule before we are asked to spend billions of taxpayer dollars."

The state has been developing numeric criteria for several years. EPA originally argued against a 2008 lawsuit filed by environmental groups saying that EPA had a mandatory duty to develop the criteria for Florida to further the objectives of the Clean Water Act. The FSA and other parties intervened on EPA's behalf.

Then in 2009, EPA said that developing NNC was necessary to attain the objective of the CWA in Florida. A consent decree requiring EPA to set the criteria was upheld, but there is another challenge questioning procedures the agency used to determine if it was necessary to develop the NNC for Florida waters.

Other lawsuits have been filed against the new rules and more are expected.

Pumping practices change. New rules governing groundwater pumping in parts of Hillsborough and Polk counties took effect this month. Aimed at preventing sinkholes and reducing well complaints when farmers pump large amounts of water to protect crops during freezing temperatures, the rules were passed by the Southwest Florida Water Management District.

Last winter, groundwater pumping initiated complaints from 700 homeowners about dry wells and is believed to have caused numerous sinkholes in the area.

The rules include a 20 percent reduction in groundwater pumping by farmers over the next 10 years, the installation of meters by significant water users and limits on how much farmers can withdraw annually.

Plus, farmers will be told to use alternative means of protection such as taking water from retention ponds and covering crops with cloth.

Flood protection project. The Northwest Florida Water Management District approved a project that will boost flood protection in the Panhandle by improving the district's flood and storm surge warning network.

The network records and transmits continual, real-time rainfall, water level and stream flow data. Officials and the public will be able to view the data online and determine the need for additional emergency measures. Officials can determine what areas will flood and the need for warnings and road closures.

Thirty-three real-time hydrologic monitoring stations will be added or updated in Jefferson, Leon, Wakulla, Franklin, Gulf, Bay and Calhoun counties.

The project will cost an estimated \$406,000 with about \$305,000 to be paid by a grant from the Federal Emergency Management Agency. Additional funding will come from the district, Leon County and the city of Tallahassee.

Wastewater overhaul to start. Leaders in Atlantic Beach gave the green light to

\$10.8 million in bonds that will finance wastewater improvements required by the state to reduce nitrogen loadings into the St. Johns River.

The plan includes closing the northern plant and conducting retrofits on the facility in the center of the city.

Money from the bonds will be used for



"We all want clean water. However, the EPA's mandates seem like they will do more to harm Florida's local government taxpayers than provide real results."

Rebecca O'Hara
 Director of Legislative Affairs
 Florida League of Cities

contracts for the work that include building a pipeline between the two plants.

Petticoat-Schmitt Civil Contractors of Jacksonville was awarded a \$1.06 million contract to build the pipeline. Plus, Landmark Construction of Jacksonville was awarded more than

\$439,000 to utilize directional drilling so the pipeline can be laid around trees.

WPC Industrial Contractors of Jacksonville will carry out most of the work that will provide nitrogen removal for about \$5 million. And, J. Collins Engineering Associates of Jacksonville will upgrade sludge treatment and odor control for nearly \$235,000.

Other work totaling approximately \$3 million has not been awarded yet. The state has mandated that around 100 municipalities along the St. Johns make similar improvements.

Wastewater study, stormwater improvements. Elected officials in Treasure Island approved spending almost \$18,000 on a study that will provide a five-year look at the financial forecast and rates for the wastewater system.

A three-year study was done in 2008 that extended through FY 2011. That study should be finished by the end of March.

The city also approved a cooperative funding agreement with the Southwest Florida Water Management District to make improvements to the stormwater drainage system that will cost about \$300,000. The city is picking up half the tab.

Reclaim expansion. The Santa Rosa Island Authority is now able to use reclaimed water for irrigating areas such as rights of way and medians.

The reclaimed water is being provided by the Pensacola Beach Wastewater Treatment Plant that is operated by the Emerald Coast Utilities Authority.

The plant may also provide reclaimed water for residential irrigation uses in the future.

Stormwater improvements. The city of DeLand and the Florida Department of Transportation are working together to fund a \$740,000 project to decrease flooding at the downtown intersection of New York and Florida avenues by making improvements to stormwater storage, including a nearby pond.

A DOT pipe installed more than five decades ago has been unable to adequately move stormwater to the pond during storms, which results in flooding in parts of the city.

The project will include improving the outfall structure and expanding retention ponds. The city will pay for about \$200,000 of the overall costs from a stormwater enterprise fund.

Direct injection. Pembroke Pines could be the first city in the southern region to recharge the Biscayne Aquifer with about 7 million gallons a day of treated wastewater. The state needs to approve the plan estimated to cost \$47 million.

The project is different than many others because the treated water will be injected directly into the ground versus onto fields, lakes or wetlands.

The project is intended to help the city

WATCH
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Jupiter utility boasts nanofiltration plant unique in the nation

By MELORA GRATAN

The town of Jupiter doesn't mind being first in terms of its water treatment technology. In 1990, Jupiter was the first town in the southeastern part of the state to build a reverse osmosis desalination plant. Now, it is first again with a nanofiltration plant that features a design that is new to the nation.

The biggest difference is the hydraulically efficient design of the treatment train that saves 30 percent in the amount of energy needed to drive the membrane process compared to a conventional plant in

Florida. As a result of the design, the utility will save \$100,000 annually or \$3 million over the life cycle of the plant, said David Brown, director of Jupiter Utilities.

The new nano plant, which was dedicated in December, replaces a lime softening facility that was around 35 years old and would be "hard pressed" to meet the Stage 2 disinfection byproducts rule, said Brown.

"The drinking water regulations were the primary driving force behind the new plant," he said. "Due to the RO plant, we were familiar with the technology and had a lot of confidence in it. And, I'm biased

toward membrane treatment. I've served on an RO association for close to 20 years, and I think it is the best technology to address raw water in South Florida."

The cutting-edge design was considered after hearing about concepts being implemented in the Netherlands. A membrane pressure manufacturer friend allowed Jupiter to use a prototype for pilot testing.

"After a couple of years of testing, we were able to tweak and improve upon what was being done and translate it into full scale (operations) for our plant," Brown recalled.

While the RO plant treats brackish wa-

ter from a depth of about 1,500 feet with a membrane at pressures of 200 psi, the new facility takes shallow raw water and treats it with membranes at pressures close to 60 psi.

This difference in pressure requires less energy and is the main reason for the reduced expenses.

"I think the innovative design will serve as a milestone for future nanofiltration and as a stepping stone for others to replicate and build on as time progresses," said Brown, who has already had a lot of plant operators visit since operations began in August.

Hazen and Sawyer PC in Boca Raton designed the plant, which has a capacity of 14.5 mgd, expandable to 17 mgd.

In addition to saving money with energy efficiency, the utility is taking the byproduct from the membrane process and generating revenue by reusing it.

Since the source is fresh water from the aquifer, it is ideal for blending with reclaimed wastewater and using for irrigation. The town will generate more than \$115,000 per year from selling up to 3 mgd to the Loxahatchee River District.

"The river district has 40 acres of lakes

SUIT

From Page 1

Haliburton and Cameron International, who fabricated and installed the blowout preventer that failed, were not named in the lawsuit when it was filed in December. Failure of the blowout preventer persists as a primary focus of officials investigating the cause of the accident.

The blowout preventer was recovered on Sept. 4, 2010, and was taken to a NASA facility near New Orleans. An independent company, Det Norske Veritas, was hired to examine it and determine if and how it failed to prevent the blowout.

Employees of both Transocean and Cameron have had hands-on roles in the investigation. The work is being overseen by the U.S. Chemical Safety Board. Recently, the board sent a letter to the Bureau of Ocean Energy Management, Regulation and Enforcement requesting that Transocean and Cameron employees not be allowed to further assist "hands on" in the investigation. Instead, the board proposed that Cameron and Transocean have monitoring status only, as does BP.

The incomplete investigation of the blowout preventer and its controversial circumstances may have influenced DOJ's decision to exclude Haliburton and Cameron International from its initial lawsuit filing. The companies could be added later, or separate lawsuits could ensue.

BP has filed a related lawsuit in the District Court in Washington, DC, challenging federal estimates of the amount of spilled oil. In its brief, BP said that it will use scientific evidence to show that the government's estimates are high by a factor of 20 to 50 percent.

The oil company did not provide its own estimate in the 20-page filing document, however. The amount of oil spilled is a significant aspect of any case that could be bought by the federal government.

Under the Clean Water Act, the company responsible for an accidental oil spill might be liable for a fine of \$1,100 for each barrel of spilled oil. If the cause were found

WATCH

From Page 4

get a water-use permit from SFWMD, recently denied because the aquifer is low.

Other utilities are drawing and treating water from the Floridan Aquifer, which is deeper and contains more salt. The city already uses bacteria and chlorine to treat its wastewater and will add reverse osmosis to make it potable.

The city also wants to build a second water treatment plant and inject everything into the aquifer versus the 7 mgd it currently pumps to Hollywood to be treated and disposed of through ocean outfalls.

Reuse expansion on base. A new wastewater reuse pump station and pipeline costing \$1.87 million is under construction at NAS Jacksonville. When complete, the project is expected to remove 18,000 pounds of nutrients annually from the St. Johns River.

The project will reduce the need to use potable water from the Floridan Aquifer for irrigation purposes.

The reuse system will add another 300,000 gallons per day to the existing 200,000-gallon capacity.

The project should be done in September. NAS Jacksonville hopes to reach zero discharge to the river by 2014.

to be gross negligence or willful misconduct, the fines could be up to \$4300 per barrel. With respect to the current range of estimates and the findings of cause, fines could vary anywhere from \$5.4 billion to \$21.1 billion.

The government's current consensus estimate of spilled oil accepted by the Presidential Oil Spill Commission is 4.9 million barrels. Though this number is a consensus number, it is not uniformly endorsed by all technical experts. Some think it is too low. Any reduction in spill volume estimates will substantially reduce BP's financial obligations if DOJ prevails in its lawsuit.

The volume of spilled oil has been a

number in revision since the first days of the spill. Some experts see the revisions as a weakness BP might well exploit successfully. Others have noted that the current consensus number is based, in part, on values supplied by BP as well as government scientists and technical specialists. They conclude that BP's challenge has no guaranteed of success based only on bringing new numbers to court.

The full complexity of the legal responsibility for the Deep Horizon oil spill is hardly apparent and may not be until the end of the hearings. Any pretrial settlement that avoids a formal hearing is likely months away.

JUPITER

Continued on Page 16

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Additional oil from Deepwater Horizon spill found near Pensacola beach

By ROY LAUGHLIN

In early November, local newspapers in the Pensacola area reported that beachgoers discovered a "well preserved deposit of crude" widely assumed to be from the Deepwater Horizon oil well blowout.

The oil is in a sandy bottom cove near Ft. McRee on the barrier island forming the west shore of the entrance to Pensacola Bay. The cove is a popular, shallow anchorage just inside the pass between the Gulf of Mexico and Pensacola Bay.

Local newspaper stories generated significant attention with claims it was recently discovered, unweathered, toxic and of unknown extent. This oil deposit, however was not "lost" according to Terry Morris, Gulf Islands National Seashore's oil spill coordinator.

The oil found buried under a couple of inches of sand and submerged in shallow water, entered Pensacola Bay and then the cove on June 22, 2010. The entry occurred as a tropical storm moved north through the Gulf.

A line of thunderstorms with high winds forced BP-contracted oil skimming boats to abandon skimming efforts. They had successfully skimmed one of the largest oil slicks to approach the area prior to the deteriorating weather conditions.

Without their efforts, and because of

the high winds and waves, oil entered Pensacola Bay in spite of a triple boom barrier. The oil near Ft. McRee was most likely, according to Morris, backwash from the larger oil slick that was carried by winds and currents north and east into Pensacola Bay.

According to Morris, BP's Shoreline Contamination Assessment Team has evaluated the extent of the oil contamination at Ft. McRee and placed it on a schedule for cleanup. It has not been overlooked or forgotten.

The oil has weathered enough to have lost most of its volatile components. It does not have an odor. It has become dense enough to sink. Its contact toxicity to humans and wildlife is considered to be minimal.

In Pensacola Bay, the Barrancas area

was the most heavily oiled, and has received the most oil recovery effort so far. Morris noted that BP's cleanup strategy is to first remediate the most accessible areas. This strategy puts Ft. McRee's oil low on the to-do list.

No roads are within five miles of Ft. McRee. Cleanup crews would most likely be taken in by boat to the area, a logistical exercise complicated by winter weather.

Morris said that the fastest cleanup method could involve machines rather than manual labor. A backhoe with the strainer in place of the bucket has been used with great success elsewhere.

The Ft. McRee area, however, is strewn with historical artifacts, primarily from the Civil War. Manual cleanup—rather than using a mechanical system—would provide more assurance that historical artifacts are

not scooped up with the oil and hauled away.

BP has an obligation to remove stranded oil by March in order to protect wildlife including nesting least terns and snowy plovers. In mid-April nesting sea turtles will return.

Contrary to impressions that might have been given by some local media reports, this submerged, buried oil from the Deep Horizon spill is not unique. It is just another example of the logistical obstacles faced by this large regional oil cleanup effort.

Isolation, risks posed by unpredictably stormy and cold winter weather, and a mix of historical and biological resources impinge on both schedule and cleanup method. Sooner or later, Morris noted, oil in the area will be removed.

Lake Okeechobee Protection Plan report:

Progress with protecting Lake O falls short of goals

By ROY LAUGHLIN

When the Lake Okeechobee Protection Plan was established, it included a recurring three-year assessment of progress and goals. The 2011 report is now in draft form and will be submitted to the legislature in March.

According to at least one environmen-

tal organization, the report doesn't give the South Florida Water Management District much to brag about.

"Our problem with the update is that they showed no detectable improvement. Obviously we are not on track to get to 105 metric tons (removed) by 2015," said Paul Gray, Okeechobee science coordinator with Audubon of Florida.

LOPP's original goal was to reduce

phosphorus loadings the Lake Okeechobee to 140 metric tons annually.

However, rather than declining, the phosphorus loading level is now somewhere between 500 and 600 metric tons, with an increasing trend.

According to Gray, "legacy loading" is responsible for the paradox of more control efforts leading to more phosphorus loading.

Watersheds are already loaded with so much excess phosphorus that it may take as many as 20 to 70 years before a downward trend is seen based on today's management strategies.

In mid-December, Audubon of Florida released a detailed analysis of the nutrient components of SFWMD's plan, pointedly proposing significantly stricter rules for agricultural practices in the Lake Okeechobee drainage basin.

"The problems have been way bigger than the programs set up to solve them," said Gray. Current practices are estimated to reduce phosphorus loading by slightly more than 100 metric tons per year.

Audubon encouraged SFWMD to re-examine the effectiveness of using best management practices for agricultural landowners in the district, and suggested imposing new and stricter rules that might be more successful in yielding the 140 metric tons per year goal for phosphorus loading in Lake O.

The organization proposed two big changes: removing the human wastes from Lake Okeechobee's watershed, and reversing the current fertilizer strategy by limiting its application and putting water quality goals ahead of agronomic BMPs.

Audubon encouraged increased enforcement of the 2007 law prohibiting the spreading of Class B biosolids on agricultural land. It also requested further restrictions on the use of Class AA biosolids material, including phasing out its use in the Okeechobee, St. Lucie and Caloosahatchee basins.

Audubon chided the water management districts for failing to directly request additional funding from the legislature to support more stringent goals. Gray acknowledged that Florida's growing budget deficit might make requests for funding seem futile, but suggests that money to meet the goals should be requested. Then the legislature can make the decision on funding.

At the same time, the group also encouraged SFWMD to develop pay-for-performance criteria for alternative treatment that removes phosphorus and nitrogen in stormwater runoff. Scarce funding would be spent on what works best rather than consumed by what is built.

The LOPP report is not due in its final form to the state legislature until March.

Other special interests are surely now talking to legislators, even if they are not enlisting public opinion for their position as avidly as Audubon of Florida. It remains to be seen how high a priority public opinion and clean water is to a legislature in which the dominant party has a veto-proof majority for allocating increasingly limited public funding.

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Officials work to find money for major Miami dredging project

By MELORA GRATIAN

Now that Miami officials are winding up the permitting process, they are trying to find the funds to start a \$20 million project to dredge and cleanup two polluted waterways that are major tributaries to the Miami River.

The city has conducted studies and analyses, and is currently waiting on a permit from the U.S. Army Corps of Engineers to improve Wagner Creek and Seybold Canal, said Alice Bravo, director of the city of Miami's capital improvement projects department.

"We are working on a funding plan as well, looking for programs where we can apply. Our goal is to do it as a single project, but we will phase it if needed and work with what we have," she said.

The cleanup plan for the waterways was approved by Miami-Dade County's Department of Environmental Resource Management in October of 2009. The county also needs to issue the city a Class I permit to implement the plan.

The process was in the final stages last month, waiting for some documents from the city and their consultant, said Lisa Spadafina, section chief of the county's coastal resources section.

Wagner Creek was once a natural

stream fed by the Biscayne Aquifer that started in the Allapattah Prairie and flowed to the Miami River. It was fed by fresh water springs that no longer exist.

Today this stream is merely a 6-foot deep stormwater drainage ditch choked with trash and considered one of South Florida's most polluted waterbodies, according to county documents for the assessment and monitoring program.

The creek receives stormwater runoff from the surrounding C-6 Basin and merges into Seybold Canal, which connects to the river about two miles northeast of Biscayne Bay. They are both tidal.

The canal formerly provided maritime facilities for commercial fishermen and is now bordered by residential properties and seawall structures. The navigable waterway is classified by the state as an Outstanding Florida Water.

In addition to high levels of dioxins, there are large amounts of lead and other inorganics throughout the waterways, said Wilbur Mayorga, division chief of DERM's pollution control section.

Due to the high levels of contaminants, the cleanup involves extra steps to ensure proper and safe handling of the material.

In addition, any of the sediment removed with pollutants higher than the 1-part-per-billion threshold will have to be

transported out of state to a landfill equipped to handle hazardous material, such as the one in Emily, AL, said Mayorga.

This out-of-state transportation is the most expensive part of the project, Bravo said. The corrective action plan estimates

that 3,558 tons will need to be disposed at a hazardous waste landfill.

Although the city was expected to start work on the cleanup a few months after the CAP was approved in late 2009, Bravo said no starting date has yet been established.

NWFWMD to adopt annual strategic plan

By ROY LAUGHLIN

The Northwest Florida Water Management District is in the final stages of adopting an annually reviewed Strategic Water Management Plan. Its governing board accepted a draft plan in early December last year, proceeded through a public comment period and is expected to approve the plan with revisions by the end of January.

"It derives from accepted practices in strategic planning," said Paul Thorpe, director of the Resource Planning Section at the district. Thorpe noted that Florida's other water management districts have implemented similar plans, and that the Florida Legislature has endorsed strategic planning under FS 373.036.

The priorities for the new plan include consumptive use permitting, environmental resource permitting, flood hazard map-

ping, wetlands restoration, reclaimed water use and alternative water supply development.

These programs already exist within NWFWMD's organization and will continue initially without great changes, said Thorpe, except that the environmental resource permitting group will increase its staff and programs.

This increase has been ongoing and is not a result of the new strategic plan. No increase in taxes or fees is part of the revised plan.

The plan follows similar strategic plans adopted over the past decade by Florida's other four water management districts.

The district still has a five-year plan but its activities and budget will be reviewed annually to determine progress and needs.

NWFWMD
Continued on Page 14

Key West continues with significant infrastructure improvements

By PRAKASH GANDHI

The city of Key West is embarking on the latest in a long line of infrastructure improvements. Over the past five years, the city has spent more than \$67 million on sewer capital improvements to rebuild the collection system, replace an ocean outfall with a Class 1 deep injection well, and upgrade the current sewer treatment plant to an advanced wastewater treatment facility.

Now, it is getting ready to start additional improvements to its wastewater and stormwater systems.

Over the next 12 months, contractors will start two large construction projects in the city to reduce the possibility of system backups and overflows.

The city is spending about \$3.7 million to modernize the headworks facility on Fleming Key and recycle an old 30-inch outfall pipe. Another \$1.14 million will be spent to design and build a new force main and upgrade a pump station.

"Our current headworks equipment is over 20 years old and we in the process of updating that," said Key West Utilities Manager Jay Gewin.

The new main will connect the city's wastewater plant directly to Pump Station F on 14th Street in New Town, an area that is vulnerable to flooding.

Gewin said the headworks project will modernize the Fleming Key plant, converting it to an open-air treatment facility.

It will connect the new force main coming down North Roosevelt to the old outfall in Old Town, then onto to the treatment area.

Gewin said the city hasn't used the outfall pipe in years. The city's wastewater is pumped into two deep injection wells after it has been through the treatment process.

"We are updating our collection system," he said. "We will use the outfall pipe and change it into an inflow pipe so we will have two separate areas where wastewater can enter into the wastewater treatment plant and minimize the chances of the system getting backed up."

The other project, designed to relieve stormwater flooding near Eaton and White Streets in Old Town, reuses an old pipe that used to dump wastewater directly into nearshore waters.

The 30-inch pipe runs from Fleming Key, near Eaton and White Streets, across Key West to Fort Zachary Taylor State Park, then ends about 3,000 feet offshore.

When the city switched to treating wastewater to near-potable levels, the pipeline was abandoned.

Gewin said these latest improvements are necessary. "By upgrading our infrastructure, it will help us better deal with any kind of spill event."

The improvements are the latest in a series of wastewater and stormwater upgrades. With the help of federal funding, the city has spent millions of dollars in recent years on stormwater projects. "We have constructed 27 gravity wells and a new pump station," Gewin said.

The city's treatment plant was built in 1989, designed and permitted to produce secondary quality effluent at a rate of 10 million gallons per day.

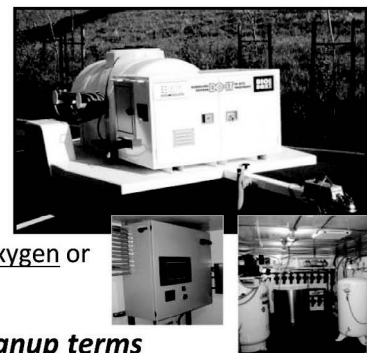
In 2001, the facility was upgraded to guarantee advanced treatment standards. "In the early 2000s, there was a lot of salt-water intrusion in the system," Gewin said. "We embarked on a major improvement program where we replaced all of our sewer lines. The amount of wastewater entering our treatment plant has been cut from 7 mgd to 4.5 mgd."

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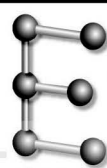
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WMD programs, projects expected to expand storage, ensure quality

By PRAKASH GANDHI

Florida's five water management districts have a busy year ahead with a full slate of programs and projects to help meet the water supply needs of a large population.

SFWMD

At the South Florida Water Management District, one priority is restoring the Northern and Southern Everglades by expanding and improving water storage capacity and water quality treatment, and incorporating the River of Grass land acquisition into restoration efforts.

Water managers will also complete the construction of existing projects and coordinate with federal partners in considering potential climate change and sea level rise on restoration plans.

The district will be implementing long-term plans and other cost-effective solutions to improve water quality, reduce nutrient loads and achieve water standards. The district says this will ensure that all waters discharging into the Everglades Protection Area are in compliance with state water quality standards.

In addition, the district plans to improve the quality, quantity, timing and distribution of water in the Northern and Southern

Everglades.

In the northern area, the district, together with the Florida Department of Environmental Protection and other agencies, will implement the second phase technical plan for the Lake Okeechobee watershed and protection plans for the St. Lucie and Caloosahatchee watersheds.

The district will also implement the 50-year plan to ensure that the water management system will operate at peak condition, which water managers say is critical to providing flood control and water flow.

Water managers will also incorporate new structures into the water management system to increase water-moving capabilities and achieve performance levels.

The district's other priorities in 2011 include coordinating with the U.S. Army Corps of Engineers on levee inspections and improvements. District staff will also provide technical assistance and land acquisition support for the repair of the Herbert Hoover Dike, which surrounds Lake Okeechobee.

The district will also be updating and implementing regional water supply plans that are consistent with local government plans. In addition, water managers will develop district and partnership projects to ensure that adequate water supply is avail-

able to meet current and projected water needs. It plans to increase conservation efforts and move forward on alternative water supply projects in cooperation with utilities, local governments and the state.

NWFWMD

Up in the Panhandle, the Northwest Florida Water Management District also has a full slate of priorities for the year.

Water managers will be working to complete final engineering and bid the construction of the Bay County Wellfield with 5.0 million gallons per day capacity and 30 mgd emergency capacity.

Bay County currently relies on Deer Point Lake reservoir to meet the majority of public water supply needs. This project will ensure that enough potable water is available after a hurricane or other event that may impact existing surface water supplies. The district will purchase land needed for an off-line reservoir using water from the Shoal River. The reservoir will be used as a source of water supply for the coastal area of Okaloosa County.

The district will also embark on engineering for the interconnection of coastal utilities from Gulf to Santa Rosa counties. The interconnections will increase water supply reliability and resiliency in coastal Panhandle communities.

District managers will provide financial assistance to add another water main across Choctawhatchee Bay connecting the existing inland wellfield to the high-demand coastal communities.

Officials will also buy the only first magnitude spring in the Econfina Creek Basin. The spring discharges directly to Econfina Creek, which is the primary source of inflow to Deerpoint Lake.

Phase 1 of the Econfina Creek Springs project, which started in the current fiscal year and continues through 2011, includes the restoration and protection of Sylvan and Pitt springs. The second phase will include Williford Spring within the Econfina Creek Springs complex.

It's the district's first major spring restoration project, restoring the springs and surrounding area to a more natural condition that allows expanded access for recreation purposes and protects the creek's water resources, especially potable water for Bay County.

The district will continue working with the regulated community on the second phase of the wetlands component of environmental resource permitting. The rules provide compliance with legislative initiatives to streamline the regulatory process allowing permits to be issued from one agency.

It also allows the submission of one joint application to manage stormwater and

wetlands impacts and will increase protection of wetlands, say water managers.

SJRWMD

At the St. Johns River Water Management District, the total state-supported funding in the FY 2010-2011 budget is \$66.61 million, which is one third lower than the FY 2009-2010 budget.

"Because of reduced state revenues, the district will experience a second fiscal year with very little new state funding for programs and projects," said district spokesman Hank Largin.

Major projects and initiatives include providing cooperative funding to local governments and utilities to implement water conservation projects; working with local governments on the exploration and development of alternative water supply projects; completing the St. Johns River Water Supply Impact Study; continuing surface water restoration capital projects, including the Fellsmere Water Management Area C-1 Rediversion project; and completing the Lake Apopka North Shore restoration.

The district's total budget for fiscal year 2010-2011 is \$254.69 million, which is \$58.5 million less than the current year's budget. The decrease is a result of reductions in property tax revenues and reductions in state, federal and other funding sources, resulting in reduced spending in most district programs.

"As revenues have declined, the district has critically reviewed its core mission and priorities," said Governing Board Chairman W. Leonard Wood in a statement. "Continued revenue reductions will mean that we have less funding available for contractual services and for our cost-share programs."

Wood said the new budget will not allow the district to pursue new water resource projects and will mean a reduction in some services. "However, it will allow us to continue our highest priority projects," he said.

SWFWMD

Increasing efficiency will be one of the goals of the Southwest Florida Water Management District in 2011. The district is reviewing all programs and projects to ensure the maximum value to the public and to determine opportunities for additional millage reductions.

This also includes a comprehensive staffing analysis to ensure current staffing levels are in line with permitting trends.

In addition, the district will be conducting a comprehensive review of all district rules to eliminate any that are no longer

WMD

Continued on Page 9

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Funding from EPA, Tronox sparks cleanup of Jacksonville Superfund site

By MELORA GRATTAN

After two and half decades of investigating contaminants stemming from a former fertilizer and pesticide plant located along the western bank of the St. Johns River in Jacksonville, cleanup could soon be on the horizon.

In addition to being added to the federal National Priority List in March, the 31-

acre Kerr McGee Chemical Corp. Superfund site will be receiving at least \$4.2 million from a spin-off company that is emerging from bankruptcy.

Tronox, which was created when Kerr-McGee became part of Anadarko Petroleum Corp., recently restructured and is paying the U.S. Environmental Protection Agency \$270 million to settle pollution issues on properties it holds across the country.

The district's goal is to ensure a sustainable water supply for all reasonable and beneficial uses while protecting and preserving springs and natural systems.

Water managers will also try to develop alternative water supply projects that affect groundwater demands and promote conservation. Another priority will be developing projects that protect and improve water quality. The district plans to ensure that water bodies are protected from significant harm and to develop an integrated data management system.

In 2010, the Suwannee district adopted revisions to its water use permitting rule. It also completed a district-wide water supply assessment, acquired a wellfield protection area for the Nature Coast Regional Water Supply Authority, and reinstated the minimum flows and levels program.

In addition, Tronox will pass along to EPA any additional funds generated from its pending litigation against Anadarko. This lawsuit claims that Anadarko knowingly shifted all of its responsibilities for polluted sites and other liabilities to Tronox. These additional funds could take a minimum of a year to become available, depending on the speed of the court system.

The bankruptcy of Kerr-McGee had halted plans to cleanup the Jacksonville site following completion of a remedial investigation and feasibility study in June 2008, eventually leading to the NPL listing.

However, cleanup efforts are moving forward again as EPA is conducting an additional public comment period before finalizing the record of decision.

"We are still evaluating the various technologies," said Dawn Harris-Young, a spokeswoman for EPA Region 4. "In terms of whether there will be enough money and a timeline for activities, we will know more with the final ROD because a technology will have been selected." The final ROD is due out in September, she added.

The site is in a heavily industrialized area close to the city's port, a trucking company, a concrete aggregate recycler and other commercial and residential properties. It is also near the St. Johns River and

Deer Creek.

After 85 years of making, packaging and distributing fertilizer and pesticide products, the plant shut down in 1978 leaving behind only concrete slabs and a legacy of contamination.

The contaminants, which are present in the soil, groundwater and sediments at levels above state and federal standards, include volatile organic compounds, semi-volatile organic compounds, pesticides, polychlorinated biphenyls, and metals such as arsenic and lead. Some examples of the levels in surface soils included in the 2008 study include arsenic concentrations as high as 5,100 mg/kg, and lead at 6,300 mg/kg.

The study also concluded that elevated pollutants were found in surficial and intermediate aquifers, but not in the deeper Floridan Aquifer. For instance, 440 ug/L of trichloroethene was detected in a monitoring well.

Overall, environmental assessments found that the public could be exposed to unacceptable risks of contracting cancer from direct contact with the soil and groundwater. Anyone eating fish from the river

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needed in order to streamline existing rules where appropriate.

The district will also be updating its current strategic plan to better tie the budget to strategic initiatives, enhance performance measures and add new strategic milestones.

District officials can now accept all permit applications online. The goal is an 80 percent utilization rate for water use permits and environmental resource permits.

The district will also provide funding for new meters and automatic meter reading equipment and their installation for all existing permits that do not already have the devices.

The district is continuing to coordinate efforts with the St. Johns and South Florida districts to identify and ensure the development of alternative supplies to meet the growing public supply demands in central Florida.

The district continues to work on projects to maximize the beneficial use of reclaimed water to offset demand of ground and potable alternative supplies. The agency has funded more than 300 reclaimed water projects since 1987. When completed, these projects will make more than 220 million gallons of reclaimed water available per day.

Currently, about half of the potential reclaimed water is being reused in the district. The agency's goal is to be reusing 75 percent of its reclaimed water by 2030. They have invested more than \$300 million in this initiative through cooperative funding over the past two decades.

In other activities, the Southwest district will conduct educational campaigns to promote water conservation. District staff will continue meeting with utility officials before renewing water use permits to discuss district tools, programs and funding that can assist in the renewal process.

In addition, the district will continue working with farmers as well. The FARMS program is a cost-share reimbursement program with the agricultural community that funds projects to reduce groundwater use from the Upper Floridan Aquifer, improve water quality and restore water resources.

By 2025, the district projects the agricultural industry can reduce its groundwater use by 40 million gallons per day through FARMS projects.

District officials will also continue an aggressive schedule to set minimum flows and levels on priority water bodies and continue moving forward with projects to promote recovery for water bodies that don't meet their minimum flow or levels.

The district has identified projects to help meet minimum flows and levels in the lower Hillsborough River, Peace River, Lake Wales Ridge lakes and Southern Water Use Caution Area lakes.

Construction will also be completed on the Clam Bayou Stormwater Treatment and Habitat Restoration project and will begin on the Sawgrass Lake Restoration and Lake Hancock Outfall treatment system.

Construction will also start this year on several regional stormwater treatment systems and habitat restoration projects. A comprehensive assessment and model for Old Tampa Bay will be conducted to identify future water quality improvement and habitat restoration projects.

SRWMD

Meanwhile, the Suwannee River Water Management District has identified 13 strategic priorities that will guide its activities for the 2011-2020 period. These priorities will be implemented through five major program areas.




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Lessons learned from failed risk-based closure attempts in Florida

By LAURA GIMPELSON, PE

Lessons can be learned when a risk-based corrective action is rejected as well as when RBCA is accepted. Last month's column presented RBCA plans that resulted in a closure order with conditions in Florida and several other states. This month's column will discuss RBCA plans that were rejected by the Florida Department of Environmental Protection or required a court order to be accepted by local or state stakeholders.

In Florida, the definition of engineering or institutional controls is the same for the petroleum cleanup, Resource Conservation and Recover Act, brownfield and dry cleaning programs when issued as part of a closure order with conditions. The difference is in the amount of analytical data and pathway evaluations that are needed to justify a COWC.

While each program specifies the same statistical equations and acceptance criteria, the data set for each program and how to manage the data varies. RCRA requires a minimum of 10 data points per ¼ acre to use RBCA to close a site when statutory cleanup target levels are not practical to reach. Also the health effects and hazard ratings must be apportioned if more than one compound causes the same health issue. These requirements limit the use of RBCA to sites where the cost of sampling or apportionment is significantly less than implementing a standard remediation plan or delaying redevelopment until a closure order can be issued.

The other cleanup programs generally require 15 to 20 data points per acre and less stringent apportionment criteria. The lower sampling costs and simpler analysis requirements allow more sites to obtain a COWC. This is reflected in the number of RCRA sites versus petroleum and dry cleaning sites on the DEP's list of closures with institutional and engineering controls.

Another issue is the comfort level the case manager and department managers have in accepting that a chemical can be present above the CTLs without causing harm to human health and the environment.

At a petroleum preapproval site in Tampa, the post active remediation monitoring program was entering its eighth year of implementation in the mid 2000s. Two monitoring wells in the center of the property would not meet the closure requirements due to benzene or naphthalene exceeding the GCTLs by 1 to 2 mg/l at one or the other well every other sampling event.

The range and frequency of the exceedences were repeated on an annual basis and were independent of water levels. The general consensus was that the site had reached a steady state concentration level for the two compounds.

I approached the case manager with the idea of submitting a RBCA with two institutional controls: a deed recordation of the location of the two monitoring wells and a ban on using groundwater for irrigation or other uses without treatment. These two controls were on the list of controls and had been approved but not implemented at a site a few blocks away.

Initially the case manager agreed to the RBCA since the monitoring results indicated the plume was not decreasing, increasing, migrating or otherwise changing in composition or volume. Also the site and adjacent properties were zoned for commercial and light manufacturing activities and would not be rezoned for residential activities.

A few days later the case manager called to say the program manager would not approve a COWC. There was a concern that a 100-year rainfall would push the plume into a tributary of the Hillsborough River located 50 feet from the site and 100 feet from the plume.

Even though the plume had remained stationary during the 2004 hurricane season, someone higher up the food chain believed it would move 100 feet and heavily contaminate the Hillsborough River or Tampa Bay should a similar event occur in the near future. So the site remains

in a PARM until there are two consecutive quarters of meeting GCTLs at all monitoring wells for all components.

At a site in Central Florida, the case manager was recommending a RBCA plan to save 32 large oak and palm trees that were located at a former cattle dip vat site. Earlier remediation actions reduced the arsenic soil concentrations to below 40 mg/kg in the area except for one site located nine feet below the center of the trees. Arsenic was detected at concentrations ranging from non-detect to 12 mg/kg in the soil samples two feet above, below and to either side of the hot spot. Arsenic was not detected in the groundwater samples from adjacent monitoring wells collected over a two-year period.

The client was willing to amend the deed to note the location and concentration of the elevated arsenic levels and relocate a picnic area and dog park so rainwater could not leach the arsenic out of the soil or harm the trees.

While preparing the sampling plan to obtain the soil samples needed to comply with the RCRA RBCA data requirements, the case manager called to say that a COWC could not be issued. There was concern that somebody would claim "harm" from the inaccessible arsenic hot spot even though data showed no adverse impact to the environment or human health. The case manager did say that any other metal in similar setting could obtain COWC.

As a result of the inability to obtain a COWC, 18 trees with a diameter greater than 70 inches were removed from the site and sent to the landfill overriding the client's wish to use the trees as mulch. Then 40 yards of clean fill dirt was brought in to fill in the hole the roots left behind. No trees were planted and the picnic area/dog park was moved to a shadier spot elsewhere on the property.

The first project in Texas that was closed using RBCA regulations required a court order to proceed. Sections of that site had been industrialized since the 1870s. Railroads and major underground utilities were located along the eastern property boundary and a retaining wall was located on the southern boundary. The northwest sections had only been used for landscaping and were considered "pristine."

Arsenic, barium, chromium and lead concentrations in the soil were above the generic CTLs approved at the time

of the cleanup. The regulators adjusted the generic CTLs to match the background concentrations for this site and adjusted the generic CTLs specified in the regulations.

Analytical data indicated that there were eight sections with unique closure requirements. The pristine and non-industrialized sections would be closed without conditions. The sections containing the railroads, underground utilities and retaining walls would be closed using institutional and engineering controls since the soil underneath the railroads and within 20 feet of the retaining wall contained only unspicuated petroleum-impacted non-native soils.

The local residents protested the proposed RBCAs claiming that the non-native soils were the source of lead found in their homes and yards. They filed suit in state court to have the approved closure plans overturned and require the petroleum-impacted soil underneath the railroads, retaining walls and underground utility corridors be removed.

The hearing judge issued an expedited ruling supporting the decision to close the site using institutional and engineering controls to protect human health and the environment. He stated the submitted closure plans met the regulatory requirements to support the use of institutional and engineering controls and that the data did not support the resident's claim that the site was the source of lead in the surrounding homes and yards.

Risk-based closure actions are one option to close a site provided that the DEP or county agencies are comfortable with the approach. Non-technical factors such as location of waterways or the specific compound involved may have a greater impact than the results of the risk assessment and analytical testing.

Only time and experience will allow RBCA to be used as often as source removal or air sparge to remediate a site or allow monitoring programs to end when the plume reaches a steady state concentration.

Laura Gimpelson, PE, is president of LG Environmental Engineering in Orlando, a WBE providing environmental and remediation services to public and private clients and green remediation courses at www.suncam.com.

EPA issues rules for stationary greenhouse gas-emitting facilities

By ROY LAUGHLIN

The U.S. Environmental Protection Agency issued guidelines for permitting stationary greenhouse gas-emitting facilities. The agency will regulate the largest GHG emitters first, beginning last month; incorporate permit requirements for GHG into the general permitting framework for Clean Air Act emission permits; delegate permitting responsibility to the states; and encourage increases in efficiency over adoption of novel technology such as geological carbon sequestration.

The agency's ultimate authority derives from the Clean Air Act, but the EPA has delegated its permitting authority to many of the states. The new guidelines are part of Prevention of Significant Deterioration provisions of Title V permitting under the CAA.

These provisions have been part of the CAA for three decades. As is the case with other emissions subject to permit, operators of facilities will be required to use best available control technology. Permit requirements apply both to new construction and to facilities undergoing significant capacity or operational upgrades.

The current guidelines apply specifically to GHG, which include the dominant one, carbon dioxide, but also include nitrous oxide, methane, hydrofluorocarbons, perfluorocarbons and sulfur hexafluoride. Permitting requirements for GHG will not apply before 2016 to any facility emitting less than 50,000 tons per year of CO2 equivalent gases.

The new document gives advice to state agencies responsible for permitting projects in their jurisdiction. Its tone is general rather than prescriptive and detailed. Best available control technology is the primary mechanism the EPA encourages state agencies to consider when issuing permits in the near future.

The report makes a special point to recognize BACTs that increases overall plant efficiency, because the agency acknowledges that control technology for GHG has not developed to a point allowing widespread adoption.

"EPA believes that it is important in BACT reviews for permitting authorities to consider options that improve the overall energy efficiency of the source or modification—through technologies, processes and practices at the emitting unit. In general, a more energy-efficient technology burns less fuel than a less energy-efficient technology on a per unit of output basis," said the report.

EPA's guidelines apply primarily to stationary GHG

point sources. These include power plants, industrial facilities and factories that burn coal or other fossil fuels.

The new rule is a response to a Supreme Court decision in late 2008 requiring the agency to establish rules for greenhouse gases as air contaminants under the CAA.

Critics of the new guidelines, which become effective Jan 2, 2011, have predictably claimed that the new guidelines will cost jobs and delay construction of needed facilities.

Estenoz appointed as DOI Everglades director

By BLANCHE HARDY, PG

Fifth generation Floridian and long-time Everglades advocate Shannon Estenoz was appointed as the director of Everglades restoration initiatives at the Department of Interior. The job became available when Terence C. "Rock" Salt was promoted to a position with the Secretary of the Army.

Secretary of the Interior Ken Salazar announced Estenoz's appointment late 2010 describing the new director as "the right person to keep the federal and state partnership moving ahead to achieve our restoration goals."

Estenoz was in her fourth year of service as a member of the governing board of the South Florida Water Management District at the time her selection was announced. She will continue to work with district staff on issues involving the Everglades as a part of her new job.

Estenoz holds degrees in both civil engineering and international affairs. She will report to Tom Strickland, an assistant secretary at DOI. Strickland said that Estenoz's experience on the South Florida Water Management District governing board "gives her a unique perspective to understand the challenges facing the state and federal partners as we move forward to restore the Everglades."

One the state's most recognized advocates of the River of Grass, she received the Environmental Law Institute's 2001 National Wetland Award and was named Florida Wildlife Federation's Conservationist of the Year in 2002.

More recently, she was recognized for her advocacy

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Florida Specifier

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We welcome columns, articles and letters to the editor on any subject or issue pertinent to the environmental, regulatory and technical areas we cover.

We reserve the right to edit all submissions for newspaper style and publish submissions on a space-available basis.

The views expressed in columns authored by industry professionals are their own.

Calendar

February

FEB. 1-2—Workshop: EPA Integrated Modeling to Characterize Climate Change Impacts and Support Decision Making, Atlanta, GA. Contact Michael Hiscock at (202) 564-8344.

FEB. 2-4—Course: Backflow Prevention Assembly Repair and Maintenance Training and Certification, Lake Buena Vista, FL Presented by the University of Florida TREEO Center. Call (352) 392-9570 or visit www.treeo.ufl.edu.

FEB. 3—Course: Lead Refresher: Supervisor/Contractor, Gainesville, FL. Presented by the University of Florida TREEO Center. Call (352) 392-9570 or visit www.treeo.ufl.edu.

FEB. 3-4—Course: Asbestos: Management Planner, Gainesville, FL. Presented by the University of Florida TREEO Center. Call (352) 392-9570 or visit www.treeo.ufl.edu.

FEB. 7-8—Course: Asbestos: Operations & Maintenance (Class III), Gainesville, FL. Presented by the University of Florida TREEO Center. Call (352) 392-9570 or visit www.treeo.ufl.edu.

FEB. 8—Workshop: Computational Toxicology Tools for Risk Assessment, Arlington, VA. Contact Julie Fitzpatrick at (202) 564-4212.

FEB. 8-9—Course: Biological and Chemical Nutrient Removal: A Study of Nitrogen and Phosphorus Removal, Gainesville, FL. Presented by the University of Florida TREEO Center. Call (352) 392-9570 or visit www.treeo.ufl.edu.

FEB. 9—Course: Lead Refresher: Worker, Gainesville, FL. Presented by the University of Florida TREEO Center. Call (352) 392-9570 or visit www.treeo.ufl.edu.

FEB. 9-11—Course: 21st Annual Cross-Connection Control Conference, Cocoa Beach, FL. Presented by the University of Florida TREEO Center. Call (352) 392-9570 or visit www.treeo.ufl.edu.

FEB. 10—Course: Asbestos Refresher: Worker, Gainesville, FL. Presented by the University of Florida TREEO Center. Call (352) 392-9570 or visit www.treeo.ufl.edu.

FEB. 15-16—Course: Hazardous Waste Management: The Complete Course, Tampa, FL. Presented by the Environmental Resource Center. Call 1-800-537-2372 or visit www.ercweb.com.

FEB. 16—Course: Energy Conservation at Water & Wastewater Treatment Facilities, Gainesville, FL. Presented by the University of Florida TREEO Center. Call (352) 392-9570 or visit www.treeo.ufl.edu.

FEB. 17—Course: DOT Hazardous Materials Training: The Complete Course, Tampa, FL. Presented by the Environmental Resource Center. Call 1-800-537-2372 or visit www.ercweb.com.

FEB. 17—Course: The Science of Disinfection, Gainesville, FL. Presented by the University of Florida TREEO Center. Call (352) 392-9570 or visit www.treeo.ufl.edu.

FEB. 17—Workshop: Odor and Corrosion Control, Bonita Springs Utilities Operations Service Center. Presented by the Florida Water Environmental Association's Air Quality Committee. Call (239) 390-4824 or visit www.fwea.org.

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by the St. Petersburg Audubon Society and received the 2010 Marjory Stoneman Douglas Defender of the Everglades Award from Friends of the Everglades.

The new director also served for three terms as co-chair of the Everglades Coalition, an assembly of environmental, recreational and civic organizations working in tandem to restore the Everglades.

Estenez will be responsible for developing departmental policy for the Everglades and coordinating the related restoration work of DOI's National Park Service, Fish and Wildlife Service and the U.S. Geological Survey in her new position.

She assumes her role during a difficult financial period for the U.S. She will need to move quickly to enhance and secure the bond between the federal and state governments, which is necessary for the program to succeed.

Her years of service in the preservation and restoration of the Everglades and the respect her efforts have earned her within the environmental community, government, agricultural community and industry should be of great benefit in her new role as director.

FEB. 19—Banquet: 2011 Central Florida E-Week Awards Banquet, Orlando, FL. Contact Lisa Prieto at (407) 902-9012 or visit www.cflengineersweek.com.

FEB. 19-27—Course: Backflow Prevention Assembly Tester Training and Certification, Gainesville, FL. Presented by the University of Florida TREEO Center. Call (352) 392-9570 or visit www.treeo.ufl.edu.

FEB. 20-23—Conference: IECA Annual Conference: Environmental Connection, Orlando, FL. Presented by the International Erosion Control Association. Call 1-800-455-4322 or visit www.ieca.org.

FEB. 22—Course: Asbestos Refresher: Inspector, Gainesville, FL. Presented by the University of Florida TREEO Center. Call (352) 392-9570.

FEB. 22—Course: Asbestos Refresher: Management Planner, Gainesville, FL. Presented by the University of Florida TREEO Center. Call (352) 392-9570 or visit www.treeo.ufl.edu.

FEB. 23—Course: Asbestos Refresher: Contractor/Supervisor, Gainesville, FL. Presented by the University of Florida TREEO Center. Call (352) 392-9570 or visit www.treeo.ufl.edu.

FEB. 23-24—Course: Microbiology of Activated Sludge, Gainesville, FL. Presented by the University of Florida TREEO Center. Call (352) 392-9570 or visit www.treeo.ufl.edu.

FEB. 24—Course: Asbestos Refresher: Worker Trainer, Gainesville, FL. Presented by the University of Florida TREEO Center. Call (352) 392-9570 or visit www.treeo.ufl.edu.

FEB. 24-25—Workshop: ADA/PT Training Workshop for Data Users, Royal Palm Beach, FL. Presented by LDCFL Inc. Call (561) 512-9956 or visit www.ldcfl.com.

FEB. 28—Course: Introduction to Backflow Prevention, Gainesville, FL. Presented by the University of Florida TREEO Center. Call (352) 392-9570 or visit www.treeo.ufl.edu.

FEB. 28-MAR. 2—Summit: Energy Innovation Summit, Washington, DC. Hosted by ARPA-E and the U.S. Department of Energy. Contact Sarah Wenning at (512) 697-8849.

FEB. 28-MAR. 4—Course: Backflow Prevention Assembly Tester Training and Certification, Gainesville, FL. Presented by the University of Florida TREEO Center. Call (352) 392-9570 or visit www.treeo.ufl.edu.

March

MAR. 1-3—Course: Respiratory Protection, Gainesville, FL. Presented by the University of Florida TREEO Center. Call (352) 392-9570 or visit www.treeo.ufl.edu.

MAR. 3-4—Course: Green Building Fundamentals for the LEED Green Associate, Gainesville, FL. Presented by the University of Florida TREEO Center. Call (352) 392-9570 or visit www.treeo.ufl.edu.

MAR. 6-9—Conference: 2011 Southeast Recycling Conference, Destin, FL. Presented by the

Southern Waste Information eXchange. Call 1-800-441-7949 or visit www.southeastrecycling.com.

MAR. 7—Course: Understanding Hazardous Waste in Solid Waste Operations, Gainesville, FL. Presented by the University of Florida TREEO Center. Call (352) 392-9570 or visit www.treeo.ufl.edu.

MAR. 7-10—Course: Water Distribution Systems Operator Level 2 & 3 Training, Gainesville, FL. Presented by the University of Florida TREEO Center. Call (352) 392-9570 or visit www.treeo.ufl.edu.

MAR. 7-11—Course: Backflow Prevention Assembly Tester Training and Certification, Altamonte Springs, FL. Presented by the University of Florida TREEO Center. Call (352) 392-9570 or visit www.treeo.ufl.edu.

MAR. 7-11—Course: Backflow Prevention Assembly Tester Training and Certification, Lake Buena Vista, FL. Presented by the University of Florida TREEO Center. Call (352) 392-9570 or visit www.treeo.ufl.edu.

MAR. 8—Course: 4-Hour Refresher Course for Spotters at Landfills, C&D Sites and Transfer Stations, Cocoa Beach, FL. Presented by the University of Florida TREEO Center. Call (352) 392-9570 or visit www.treeo.ufl.edu.

MAR. 8—Course: Hazardous Waste Regulations

for Generators, Cocoa Beach, FL. Presented by the University of Florida TREEO Center. Call (352) 392-9570 or visit www.treeo.ufl.edu.

MAR. 8—Course: Spotter Training for Solid Waste Facilities, Cocoa Beach, FL. Presented by the University of Florida TREEO Center. Call (352) 392-9570 or visit www.treeo.ufl.edu.

MAR. 8—Course: Asbestos Refresher: Management Planner, Tampa, FL. Presented by the University of Florida TREEO Center. Call (352) 392-9570 or visit www.treeo.ufl.edu.

MAR. 9—Course: U.S. DOT Hazardous Materials/Waste Transportation, Cocoa Beach, FL. Presented by the University of Florida TREEO Center. Call (352) 392-9570 or visit www.treeo.ufl.edu.

MAR. 9—Course: Asbestos Refresher: Contractor/Supervisor, Tampa, FL. Presented by the University of Florida TREEO Center. Call (352) 392-9570 or visit www.treeo.ufl.edu.

MAR. 9-11—Summit: Environmental Industry Summit, San Diego, CA. Presented by Environmental Business International. Call (615) 295-7685 or visit www.environmentalbusinessjournal.com.

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HEALTH AND SAFETY TRAINING – HAZARDOUS MATERIALS

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40-hour OSHA Course
Mar. 28 – Apr. 1, 2011 Gainesville, FL
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CEUs: 4.0
FBPE Provider #: 0004021
FBPE PDHs 0003602: 40.0
FDEP OCP DW/WW CEUs: 4.0; Advanced: 4209

Health and Safety Training for Hazardous Materials Activities:

8-hour OSHA Refresher
Mar. 7, 2011 Cocoa Beach, FL
Fee: \$325
CEUs: 0.8
FBPE PDHs 0004040: 8.0
FDEP OCP DW/WW CEUs: 0.6; Advanced: 4210
Solid Waste I II III/C&D/TS/MRF: 4.0
Solid Waste Spotter: 2.0
SWANA CEUs: 4.5

OSHA 10-Hour General Industry Course

March 8-9, 2011 Cocoa Beach, FL
Fee: \$325
CEUs: 1.0

U.S. DOT Hazardous Materials/Waste Transportation

Mar. 9, 2011 Cocoa Beach, FL
Fee: \$325
Solid Waste I II III/C&D/TS/MRF: 6.0
SWANA CEUs: 5.0

Hazardous Waste Regulations for Generators

Mar. 8, 2011 Cocoa Beach, FL
Fee: \$325
CEUs: .8
FBPE Provider #: 0004021
FBPE PDHs (0003587): 8.0
Solid Waste I II III/C&D/TS/MRF/Spotter: 4.0
SWANA CEUs: 3.0
FDEP OCP DW/WW CEUs: Intermediate: 4261; 0.8

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THE BIZ

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been worse in Florida than in other states, but the forecast for 2011 is better, agreed Stephen Lienhart, vice president of water resources and water quality for AECOM Technology Corp. in Tampa.

There has been an upturn in RFPs on the street and some cities have started advertising projects, Lienhart said. "In 2011, we see more clients coming back to market with significant projects that are pent-up demand, particularly in the water segment."

These projects are being driven by the need to update older treatment facilities for capacity and regulatory reasons, as well as consumptive use issues as the state runs out of cheap water.

The competition for projects, however, remains stiff, Lienhart said. More firms that don't specialize in specific areas are competing in order to keep their people busy.

For example, he cited a recent pre-proposal conference that would have normally

been attended by six or eight firms being moved to a bigger room to accommodate representatives from about 65 firms.

"We have pursued things we normally wouldn't have pursued," said Elie Araj, president of Applied Sciences Consulting Inc. in Tampa, which employs about 10 people. "We like to go after projects we have marketed ahead of time and know the client so we won't be wasting our time."

This shift has included pursuing projects out of its typical geographic area or expertise niche due to squeezed margins and increased competition for less work.

He said cities are receiving 30 or 40 proposals on a \$75,000 project, which means firms are spending more collectively on the proposal than the job is worth.

"It (2010) was a crazy year," Araj said. "Everyone's revenue is less than they expected and many have cut back on projects and people. And, this year isn't promising to be much better either, especially at the state level."

While Araj says there has been a recent increase in project activity, he isn't confident it will last. In addition to a lack of stimulus funding, the state has a sizable deficit and is looking for programs and areas to cut in order to create a balanced budget.

Although Araj said his revenue has been good and he has hired some key people, he is definitely not as enthusiastic as he was two years ago. He said 2008 was his best year in terms of revenue and that Applied Sciences' core work in the public sector was strong and steady. Now, he said everyone is pursuing government work and that workload has continued to shrink.

On top of this decreased work load and increased competition, Araj said he is concerned about efforts in some public purchasing departments to repeal the Consultants Competitive Negotiations Act.

Passed in 1973, CCNA requires state agencies, municipalities and school districts to select consulting firms based on qualifications rather than low bid. Araj is fighting this repeal effort by working closely with the Florida Engineering Society and the American Society of Civil Engineers.

"We might soon be competing solely on price, which would be a disservice to the industry and those receiving the services," Araj said. "We don't want people designing bridges because they have the lowest price. They should first have the qualifications; then you negotiate price."

Other legislation that could be forthcoming in the session ahead may relate to the trend toward public-private partnerships in order to build or upgrade infrastructure, especially for water and wastewater facilities, during times of stressed budgets and fiscal restraints.

A half dozen states already have legislation supporting these partnerships, said John J. Fumero, a state and federal government and administrative lawyer with Rose, Sundstrom & Bentley LLP in Boca Raton.

"I see this playing out in the coming year," Fumero said. "It seems to fit on a number of fronts. It could create a lot of business for environmental consultants and others."

Fumero cited an RO plant in Hialeah that was built successfully last year with a design/build/operate/finance method as an example. This DBOF method will become more prevalent with national and international companies looking to bring their operational and financing expertise to public infrastructure, which they see as a sound investment. Other countries, he said, have a lot of bridges, roads and plants that are operated and financed by private entities.

These partnerships could be part of the solution to bridging the financial gap for utilities and local governments in meeting more stringent standards, such as the federal numeric nutrient criteria for state surface waters, with less money, Fumero said.

The new NNC standards have been vehemently opposed by many in the environmental industry and other stakeholders as extremely expensive with little environmental benefit and lacking scientific basis, achievable goals or consideration of differences in individual water bodies. Lawsuits contesting the criteria abound and many believe their implementation in the state next year simply won't happen.

"I don't think it will have much traction or be implemented anytime soon," said Araj, who is on the board of the Florida Stormwater Association, which filed a lawsuit recently opposing the NNC. "I think the way that things are going, there will be more work for lawyers than engineers or scientists because everyone wants justification. And we are still struggling with TMDLs. It is also an unfunded mandate ... there are a few cities and counties that are barely making it."

If EPA does not open up to collaborating on revisions that entail more water-body-specific standards before the 15-month interim period is finished, there will be an impasse in implementation, predicted Frank Matthews, a shareholder with the Tallahassee law firm of Hopping, Green & Sams, PA.

"The state is unwilling and the EPA is unable to implement them," said Matthews. "It has to be a cooperative effort if it is going to succeed. We are at a standstill with a lot of water quality projects because it doesn't make sense to go forward (with this in question). It is one of the ironies that it has set back and delayed water quality improvements."

Matthews believes that the judicial process will not have played out by the end of the 15-month interim period and the state will continue to use its narrative standard augmented by TMDLs. This will leave EPA in the position of having to decide whether to second guess the state on a case-by-case scenario. "This is an awful climate in which to stimulate the economy—to let people twist in the wind, not knowing whether their state permit will be upheld," he said.

Matthews said he hopes the state will be more outspoken now on what it has achieved with its existing program rather than just continuing to critique what EPA has put forward.

"We have been timid in our state response," he said. "Now the courts, at least, and I hope the Legislature, will take an affirmative stance on the existing program that is working with a timetable. The plaintiffs have gotten away with saying the state has taken no action in the last 15 years, and we need to communicate what we have achieved and what else needs to be done."

"There are great stories on what we have done by affirmatively taking on the

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battle of developing nutrient-based standards.”

The NNC debate will most likely play out in the courts, said Cathleen Vogel, owner of The Catalina Group Inc. in Flagler Beach, which handles government relations work in areas such as water resource policy and projects.

In addition to lawsuits in Florida, the NNC is spurring similar litigation in other states including Wisconsin and Kansas. She represents the Florida Water Quality Coalition, which was scheduled to issue an update to its economic study at the end of January.

While her clients and colleagues are not happy with the new rules, she points out one silver lining to figuring out the logistics of compliance. “It will involve the work of professionals such as consulting engineers and biologists. So, while the state isn’t happy about EPA’s intrusion, it will create some job activity.”

In the long run, Fumero believes the NNC are here to stay and that it will boil down to what they look like when the proverbial dust settles. “The reality is that we are entering a new era where nutrients are going to be a major focus of agencies,” he said. “The numeric nutrient standards are just one part of a nationwide initiative on water quality standards by EPA.”

Both Fumero and Matthews believe there will be legislation or efforts by the new administration to streamline government agencies. There has been some talk about combining state agencies and a moratorium has been placed on agency rule-making. In addition, agencies with contracts of more than \$1 million must now get approval from the Governor’s office.

“The optimistic view is that it is a set of new eyes and a fresh look that will probably question where the value-added policies are,” said Matthews on the new administration. “It is exciting that it won’t be the same-old, same-old, and the change probably won’t be incremental. I think they want to make meaningful change, and the continuing refrain is ‘where can we do better without reducing protection.’”

Fumero agreed that the new administration could mean innovative, fresh proposals and that change presents opportunities.

One of the ways regulatory streamlining could unfold is through a new committee on water policy formed by the state House of Representatives and headed by Rep. Trudi Williams, a PE and former chairman of the South Florida Water Management District’s governing board.

The water policy committee will be a positive forum, said Bob Cushing, PE, PhD, BCEE, senior vice president with Carollo Engineers in Sarasota.

“There is always a balance between environmental pressures and ratepayers ability to pay rates and taxes,” he said. “And having that group look strategically at those issues will put us in a position to create and implement policy with the best bang for our environmental investment.”

Carollo has noticed a considerable change in the nature of its projects over the past few years, Cushing said. The change has shifted work from growth-related projects such as increasing capacity to those centered on optimization of operations and existing infrastructure with an emphasis on bolstering reliability and the interconnectivity of distribution and collection systems.

These optimization projects can include increasing energy efficiency and decreasing operational costs.

Remediation is another area where the type of work has shifted due to the economy and available funding from government programs. Rather than environmental assessments stemming from new development, ERMI in Fort Myers has been handling the back side of loans as foreclosures occurred and needed to be worked out for about the past three years.

The company also conducts tank work and has diversified into providing forensic investigations in numerous states.

“This is the first time in my 20 years where the real estate market and the state

reimbursement program have receded at the same time, so a lot of companies suffered if they didn’t diversify. Many went out of business,” Hilfiker said.

Forensics has been a good niche for ERMI to pursue. It has many applications, including a funding issue with a mandate to remove underground storage tanks by the end of 2009. Property owners needed to know when a discharge occurred in order to determine eligibility for funding, and forensics can determine the time-frame and causes of past spills to determine the responsible parties for situations such as mixed plumes.

In terms of funding historical discharges, the state preapproval and petroleum cleanup programs need more funding from the Legislature this session to produce more results and more work that will stimulate the economy and put land back into the tax base and productive use, he said.

A new law and revised guidance sets aside up to \$10 million from the Inland Protection Trust Fund to assess and monitor sites that could have had contamination attenuate naturally over the years and no longer need active remediation.

“This new law should get sites with low scores off the state’s list and switch more sites into natural attenuation as a method of cleanup, which should reduce costs and cause scores to drop,” Hilfiker said.

Another program that needs more funding to provide economic benefits is the Voluntary Cleanup Tax Credit fund, which supports the cleanup and redevelopment of brownfields in the state, said Roger Register, director and manager of the Tallahassee office of Cardno/TBE. In addition to being underfunded, the program has a \$7 million backlog.

“It’s about getting money released and looking at actual programs at the state level that have proved to be job creators and benefitted the community,” said Register, who worked for DEP earlier in his career. “This is a proven program. Let’s fund it.”

Another area that could use funding to achieve its goals and produce jobs is recycling. If excess money in the Solid Waste Management Trust Fund could be provided to industry in the form of grants or other incentives to encourage fostering the collection and processing of recyclable commodities, it would be helpful to reaching the state’s aggressive recycling goal of 75 percent by 2020, said Gene Jones executive director of the Southern Waste Information eXchange in Tallahassee.

About 95 percent of the state funding—about \$1 billion since 1988—has gone to curbside recycling programs when 65 percent of the waste is created by industry. “We need to change that thinking and put the money toward assisting industry in the state,” Jones said.

The state hasn’t been able to reach its previous 30 percent recycling goal as of yet. In order to do this, Jones said, we must do a better job of creating recycling markets and incentives for industries, use more waste materials for energy feed stocks, and try to attract more industries to the state that use waste as feed stock for energy and manufacture products from recycled products. The state can start by requiring its own agencies to buy products made from recycled products if they meet specifications and are at the same price.

“Gov. Scott can make a huge impact by fostering new business development in this industry,” Jones said. “The majority of materials are recycled out of state. We need to keep them here to manufacture into products that we can sell here, which will create jobs and help the economy.”

More money in any or all of the areas mentioned, will certainly lead to more positions for folks that have been laid off, put on part-time or work from home to cut costs. Some companies have already started hiring again and say there are more people available with better qualifications.

Lienhart of AECOM said his company is starting to fill some of its openings, taking a positive outlook on the next 12 months.

“Industry-wide, there is still a lot of different practices, such as furloughs, more part-time or on-call positions, and hanging

on to staff who might have retired,” he said. “I think this will continue for another six months, and those on three-day weeks will go back to five days and those on call will go to three- and five-day weeks, as the economy continues to strengthen.”

Lienhart predicts this gradual re-engagement of staff will continue for about a year to 18 months unless something significant happens to slow or speed up economic recovery.

At that point, entry-level folks will be needed, some of whom may have returned to school to earn graduate degrees in the wake of fewer positions being available.

A lack of entry-level hires could create a gap in staffing, said Cushing. “It is mutu-

ally beneficial to start bringing on these folks like we had in the past.”

Making it through the tough times may cause some industry employees to start looking around for other opportunities in 2011 unless companies take steps aimed at retention, said Swallow. “We want to provide more opportunities for development, training and positive impacts on compensation compared to the last couple of years. Our core assets are our skills and experience of our people, so holding on to them is of paramount importance.”

Training for industry professionals has

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also been evolving to reflect supply and demand. For instance, reductions in most companies' travel budgets have led to more Internet and on-site training classes, said Carol Hinton, associate director of the UF/TREEO Center in Gainesville. A hybrid of the two can address both the class work and hands-on components of meeting requirements.

"We have 50 percent more requests for on-site training," Hinton said. "Our instructors come from all over the state, so this is not a hardship (for us)."

Areas of training that have slowed include LEEDS, due to the drop off in construction and regulatory changes. Areas in higher demand include training for mold assessors related to new mold rules, lead-based paint courses for building renovators, and courses that prepare water distribution operators to obtain licenses that are required for the first time.

Another recent trend is the need for more water conservation coordinators. "I

think each utility will need someone like this in the future," Hinton said. "Some of the larger ones already have the position, but there was never any formal training."

TREEO offers six classes for this online and two face-to-face that include a mix of engineering, public relations and community education.

While most pundits predicted that a shortage of qualified professionals in the water and wastewater fields would be felt by now, Hinton said the economy has prompted most senior staff to delay their retirement at least a few years.

The shortage is still here, she said, but it's not as critical as it would have been if the economy had remained strong.

Acquisitions and mergers continued in 2010 for many companies including Golder and Cardno/TBE. The latter is product of a merged company, which bought two more firms in 2010 to increase services and skill sets. Golder made one acquisition in 2010 and plans to wrap up another significant one in 2011.

"As the confidence increases, the

A&M activity will build as well," Swallow said. "The trend is that the big firms are getting bigger and there are fewer and fewer medium-size firms."

This activity also helps narrow down

NWFWMD

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Changes will be made as needed to stay on track. In addition, the agency still has a 20-year water supply plan that will be reviewed every five years.

When asked if financial circumstances were a significant factor in the move to annual reviews, Thorpe said that the budgeting will be done annually under the new plan at which time they will revisit priori-

TRONOX

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and creek and swallowing water from the surficial aquifer could have serious health risks.

Plus, endangered species such as the spotted turtle, the shortnose sturgeon and the West Indian manatee were shown to be at risk of harm from the pollution.

The 2008 study evaluated three soil cleanup alternatives, four for sediment, three for groundwater and one overall site-wide alternative based on criteria such as overall protection of human health and the environment, long-term effectiveness and permanence, the ability to implement, cost and the acceptance of the state and local community.

The preferred remedy at that time was the comprehensive approach that addressed the site as a whole. This remedy

FEDFILE

From Page 2

New guidance for CFLs. The EPA actively encourages people to switch to more energy-efficient compact fluorescent lightbulbs, CFLs, to significantly reduce electrical requirements for lighting. Reduced electricity generation will cut greenhouse gas emissions that contribute to global climate change.

But compact fluorescent bulbs contain mercury and may release mercury vapor if they are broken.

The EPA released an updated lay-

the field to the strongest players. "I think the remaining firms will be in a better position to take advantage of the economy. I think we will see an improvement in the industry in 2011," said Fumero.

ties and review progress.

"Funding sources change and events happen," he said, making the annual budget review and spending adjustments an important routine in a short time frame.

This particular aspect of the plan is new to the district and is the basis of the plan's intended benefit of "accountability."

The plan, if and when it is approved, is available on line at www.nwfwmd.state.fl.us/pubs/swmp2010.

included building a slurry wall, installing a site-wide cap, installing and operating a groundwater extraction system to treat groundwater within the wall, and bulkhead construction of contaminated sediments.

Extracted groundwater would be treated with a carbon/alumina system and discharged into the river. Land use controls also would be put in place to limit the future use and development of the property.

The preferred remedy was selected over other alternatives because it was expected to provide the most long-term risk reduction, while allowing the site to be used in some manner in the future.

The estimated cost for the 2008 remedy was \$18.6 million.


The selection of this approach as the preferred remedy could now change due to new information and public comment before the final ROD is released this fall.

person's guide for cleaning up broken compact fluorescent bulbs, while minimizing exposure to mercury vapors released by breakage.

The new guidelines encourage people to open windows or otherwise promote dispersal of mercury vapor, turn off ventilation systems that might spread the vapor to other parts of the building, and to put pieces of the broken bulb into an airtight bag or container that is then placed in an outside trash collection receptacle.

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VINYARD

From Page 1

Scott has reached out to someone with business credentials to serve in this capacity," said Leonhardt, who also serves on the board of the Florida Chamber of Commerce.

"We have a new governor who has not had a career in state bureaucracy and is himself more comfortable in the boardroom.

"He is looking at Florida as a business entity and so going to Vinyard is a logical step. The chamber is very pleased to have someone with this particular background serving in this capacity."

Leonhardt says Vinyard understands the need to balance protecting the environment with doing business. "I don't know that we have had someone with as strong a business pedigree as Vinyard," he said. "But I would caution environmen-

NOTES

From Page 3

mine if the cut-off wall is effective.

Disagreements over how the site should be handled have stalled cleanup activities for years.

Biomass project gets nod. Before leaving office, former Gov. Charlie Crist and the Florida Cabinet decided to back a biomass plant that would be built in the Gainesville area.

The 100-megawatt facility will provide renewable energy to around 70,000 residences and diversity the portfolio of Gainesville Regional Utilities.

Opponents argue that it will boost greenhouse gases, create traffic congestion and increase power rates.

Fines and violations. When a home building company didn't hold up its end of a permit and create a wetlands preserve in order to be allowed to destroy a much larger area for a development, a judge ordered it to comply with the permit and pay a hefty fine.

Century Homebuilders was given permission to destroy 415 acres of wetlands in western Miami-Dade County if it removed exotic species and created a 47-acre wetland.

As a result of the ruling, it has to pay a fine of \$400,000 and regulatory fees of \$60,000. The stiff penalty was levied as a message to developers that meeting all the conditions of their permits is paramount, said a federal government attorney.

Part of the fine will be used to purchase wetlands mitigation credits what will be applied to a project in Everglades National Park. Under a U.S. Army Corps of Engineers permit, the company was supposed to clear invasive plants, add native plants and install berms.

In addition to failing to complete most of this work, the company was accused of violations such as dumping rock fill on land that was supposed to be part of the wetlands. Century was given two years to pay.

Elsewhere, state officials fined a company \$25,000 for mercury emissions and ordered it to make changes. One of Cemex's cement kilns in Hernando County emitted mercury at levels that were 10 times higher than allowable amounts, according to DEP.

The kiln was in violation of mercury standards on several tests performed in late 2009, according to a consent order. However, tests in August showed the kiln met permit requirements. The agency and company started a compliance program and made process changes that have resulted in meeting the standards. Cemex has paid the fine.

The Northwest Florida Beaches International Airport is the subject of more environmental fines totaling over \$227,000. Previous fines concerned work on the stormwater drainage system, expected to be complete before the airport opened.

DEP said the airport was operating for more than four months without a completely functional stormwater system. In addition, the airport board and environmental consultants are being sued by the Phoenix Construction for not making payments for the construction of the airport.

Company, people news. Kleinfelder acquired environmental consulting firms in Florida and Colorado. Here in Florida,

tal groups not to overreact to the fact that he has a business background."

Vinyard also drew positive comments from Charles Lee, director of advocacy for Audubon of Florida. Lee has been active in the state's environmental issues for many years. He said the new secretary has a good environmental track record.

"He has been an advocate for some land acquisition efforts in northeast Florida and his shipyard has had a good record for solving environmental problems in the St. Johns River," Lee said. "He has a lot of environmental experience."

Vinyard will face tough hurdles in his new role.

"DEP, just like all other departments, is challenged by budget deficits," Lee said. "The key task for a new secretary is deciding which programs are crucial and should

Kleinfelder picked up LPG Environmental & Permitting Services Inc., a 20-person environmental consulting firm with offices in Orlando, Jacksonville and Lakeland.

LPG offers a diverse portfolio of environmental planning and permitting services, including several that are vital to the Florida market, such as endangered species evaluations and wetlands consulting.

Blake Holcomb, staff engineer with Golder Associates Inc., received his professional engineer certification in Florida. He joined Golder in 2009 and provides engineering consulting services for storm water design and NPDES permitting.

be maintained or expanded, and which ones should be revised."

Vinyard will be filling the shoes of Mimi Drew, a DEP stalwart with many years of working for the agency. "Mimi was a very well-respected, veteran of the department," Lee said.

He said he is hopeful that the new governor will make environmental protection a priority. Gov. Scott is a new face who comes to Tallahassee as an "outsider," Lee said. "He does not have allegiances to the status quo."

Lee said he has talked to the new governor. "He does have the philosophy of smaller government and being conservative. Clearly, improving the economy and creating new jobs are his priorities. But I am optimistic and hopeful that he will support efforts to protect Florida's environment."

Veteran Tallahassee environmental attorney Bill Preston said it's a plus that Vinyard has a legal background. "He will understand the legal side of the agency's actions which is a positive factor," Preston said.

"From what I have seen in terms of his work, he certainly seems a bright fellow and will bring some new ideas and new energy to the department."

Preston says Vinyard appears to get along with people, adding that it's significant that he is someone who's from outside the agency.

He said he is pleased with the direc-

tion the agency has been taking. But more can be done. "I think the department has been doing some innovative things such as electronic filing and trying to establish tools for processing permits that need to move through the district," Preston said.

"But I still see inconsistencies between different district offices and I think there is a lot of room for improvement.

"This is a chance for the new administration and secretary to say let us see if we can do something better here. The biggest complaint I hear is that the enforcement is not applied equally. That drives the regulated community bonkers."

Preston doesn't believe Vinyard will be soft on polluters. "I expect and certainly hope that he will make it clear, as would the governor, that the department is charged with enforcing the environmental statutes and regulations that are on the books. I would not expect any regression from the standard."

Scott's transition team has called for consolidating state regulatory agencies. His advisors on regulatory reform recommended merging the state's departments of Environmental Protection, Transportation and Community Affairs into one department.

Scott also recently appointed an executive of one of Florida's largest land development companies to oversee the state department charged with managing growth. Billy Buzzett, vice president of the St. Joe Co., will take over the Department of Community Affairs, the state's land planning and community development agency.

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Eglin AFB installs new incinerator

Staff report

Eglin Air Force Base is reducing the amount of waste it dumps into landfills thanks to a new incinerator. The base will start using the incinerator when its air quality permit is amended to include it.

Officials say the burner could reduce the amount of waste going to area landfills by 90 percent.

Costing \$86,000, the incinerator was

bought with a funding incentive because it is more environmentally friendly than dumping waste in landfills.

The burner has an air curtain that contains the flames and smoke without extinguishing them. Eglin officials say the machine burns quicker and at a higher temperature that reduces the amount of pollutants released.

Chemicals and chemically treated wood will not be disposed of in the burner.

JUPITER

From Page 5

where wastewater is stored, but they were falling short of meeting demands for reuse," Brown said. "This will help shore up their supply, as well as reusing another resource."

The combination of the two plants also will promote sustainability by adjusting how much each plant produces depending on weather conditions.

Normally the plants would share the burden equally. However, during times of drought, the RO plant will be used more since the deep aquifers are more drought-resistant and will not impact the river and area wetlands.

This will also help conserve local sup-

plies of fresh water during droughts. In opposite conditions, the nanofiltration plant can be used more due to its lower operating costs.

"We have built in a lot of flexibility that has led to a greater long-term sustainability of sources, which is critical," Brown said, particularly because the river is one of only two nationally designated Wild and Scenic rivers in the state.

The new plant cost \$43 million to build, which came in \$1 million under budget. It was paid for primarily with renewal and replacement reserves the utility regularly sets aside to replace assets, with the remainder coming from impact fees on future development. As a result, the utility does not plan on raising rates, which are about 19 percent lower than other area utilities.

"We religiously try to set aside reserves to minimize the impact," Brown said. "This has been hard to do with the economy, but this is the reason for doing it. We have this new state-of-the-art facility and the rates remain lower than other utilities."

Construction administration for the plant was conducted by Kimley Horn and Associates of West Palm Beach. Value engineering services were provided by Rostek Services, Aqualyng Holdings, Durancieu Consulting Services, and Kimley Horn.

Brown attributed the utility's access to design innovations to his staff's involvement in numerous regional and national trade associations, such as the American Membrane Technology Association and the Southeast Desalting Association, and the relationships they have forged there.

"This involvement led us to having access to ideas and technology that ultimately saved our customers substantially," he said.

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This fall, the Annual Florida Remediation Conference, now in its 17th year, will again focus on the issues of soil, groundwater and sediment contamination cleanup in Florida's unique physical and regulatory environment.

Engineers, scientists, hydrogeologists, project managers, regulators, compliance managers, consultants, equipment vendors, lab representatives and other environmental professionals will benefit from the opportunity to exchange information, discuss case studies and analyze field operations in what has become the Southeast's top annual remediation meeting.

All participants will have a chance to learn about emerging treatment technologies and support services available for effective cleanup projects, and how they're being put to the task in the field.

We are now identifying sessions topics for presentation and are asking for abstracts on "green" and sustainable remediation, risk assessment/RBCA, bioremediation, natural attenuation, emerging technologies, mixed waste challenges, site assessment technologies and methods, field sampling, site stabilization, combined strategies, vapor intrusion, regulatory policy and initiatives and cleanup of sites and surface water contaminated with petroleum, PCBs, chlorinated solvents, arsenic and heavy metals, pesticides and other contaminants.

We are again looking for talks on proven technologies with real-world applicability to Florida and appreciate data-heavy presentations and "roll-up-the-sleeve" approaches.

Submission Instructions

We will soon start reviewing subject matter to be included on the 2011 FRC agenda. If you are interested in being a part of this year's conference, submit an abstract of approximately 250 words by **May 30, 2011**. FRC presentations are strictly limited to 25 minutes in length. Mail, fax or e-mail abstracts to:

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The *Florida Specifier*, NTCC's state-based, industry-leading trade newspaper for over three decades, regularly covers the soil and groundwater cleanup industry in Florida and the Southeast with news and information about state and federal regulatory changes, effective technology-based solutions and the players involved in this solid segment of environmental protection and resource management.

Questions?

You can reach us at (407) 671-7777 or 1-800-881-6822, or online at info@enviro-net.com should you have any questions or need additional information about FRC 2011.

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