

Florida Specifier



Practical Information For Environmental Professionals

Single Copy Price: \$5

February 2012

Volume 34, Number 2

St. Johns withdrawals 5

In December, an advisory board released its final critique of the St. Johns River Water Supply Impact Study, assessing the environmental impact of proposed additional withdrawals from the river.

Infrastructure study 7

According to a study by the American Society of Civil Engineers, aging water infrastructure could cost U.S. businesses \$147 million and the loss of 700,000 jobs over the next decade. It warns that unless investments are made, insufficient water infrastructure will cost the average American household \$900 a year in higher water rates and lower wages.

ESA clarification 9

The Endangered Species Act includes the phrase "significant portion of its range." The meaning of that phrase is not specifically defined in the ESA, although it is referenced in several places. This will change, perhaps as early as next year.

2012 session preview 10

Growth management and environmental changes usually get a lot of attention during the annual state legislative session. But, perhaps, not so much this year. Duke Woodson and Kami Corbett weigh in on what may lie ahead that could affect the environmental business.

Santa Fe nitrate levels 14

DEP has a plan to cut nitrates from the drainage basin that feeds the Santa Fe River, a 1400-square-mile area that includes a chunks of Alachua, Gilchrist, Columbia, Bradford and Union counties.

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Got a story lead?

Got an idea for a story? 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 in 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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In spite of tough financial challenges, WMDs expect continued success completing key tasks

By PRAKASH GANDHI

Doing more with less. That's the motto of Florida's water management districts that ushered in 2012 with the sobering economic reality of having less cash to work with to fulfill their key responsibilities.

These are tough times for the state's five water management districts, which have recently been forced to slash their budgets by more than \$700 million.

The reduced spending goes far beyond the \$210 million in cuts lawmakers ordered last year through property tax reductions, with more than \$500 million of the total \$700 million in cuts coming from the South Florida Water Management District.

Environmental activists complain that the severe budget cuts will hamper the state's commitment of protecting waters of the state.

Much of the statewide reduction resulted from Gov. Rick Scott's order to stop issuing bonds to buy conservation lands, to cut salaries and employee benefit packages, and to eliminate fee memberships and conference sponsorships.

The cuts are being felt acutely at one of Florida's largest water management districts, the Southwest district. The agency's board recently agreed to shed 130 to 150 of its 768 employees by early this year.

The agency had already cut its bud-

get to 44 percent of what it was last year, but still faces a potential \$30 million shortfall by 2013, agency officials said. A plan hatched by newly-hired Executive Director Blake Guillory is expected to save Swiftmud more than \$15 million per year.

The remaking of Swiftmud really took off with the arrival of Guillory who started the first week of October.

He immediately sent two of his deputy executive directors and the agency's long-time attorney packing, and then demoted a third deputy director.

District spokesperson Amy Harroun said the agency's first and primary goal for 2012 is rebalancing the dis-

DISTRICTS
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Photo by Emily White

Laura Sherman levels an arm on a precipitation sampling tripod at a collection site in Crystal River where researchers used mercury isotope composition to fingerprint the mercury collected. See story on Page 6.

State of the biz:

Environmental industry leaders upbeat going into new year

By PRAKASH GANDHI

Though nobody's popping champagne corks yet, Florida's environmental industry is ushering in the New Year on a positive note of cautious optimism that the worst of the recession has come and gone.

Memories of painful times may still be fresh in many people's minds, but those that make their living dealing with water and wastewater issues, waste management, remediation and the like expect that business will pick up in the year ahead.

"Things are picking up, although the jury is still out," said Kathy Hale, president of Environmental Management & Design in Orlando.

But just like the economy as a whole, any turnaround in the environmental sector will be slow at best, say industry experts.

While most of those interviewed said that they expect a better year than last, there still remains some uncertainty about the pace and sustainability of forward progress.

More than 75,000 people are employed in the environmental industry field in Florida, according to figures supplied by San Diego-based Environmental Business International Inc.

Increasingly, those that make their living as engineers, scientists, geologists, lawyers and the like see their business fortunes aligned with the state's economy, which has struggled to extricate itself from the worst recession in more than 70 years.

"Increasingly, the environmental industry is tied more to the economy and less to regulatory programs and enforcement," said Grant Ferrier, editor of EBI's Environmental Business Journal.

"It's also tied less to the real estate market and more to resource development, renewable energy and energy efficiency," he said.

Ferrier noted that the latest EBI poll conducted of 300 environmental companies nationwide showed median growth rates of 4 to 5 percent for 2011. That should increase to 6 to 7 percent in 2012, the firms predict.

Growth in the \$312 billion U.S. environmental industry was 3.1 percent in 2010. In the consulting and engineering segment, growth was a modest 2.0 percent in 2010, following a 3.9 percent decline in 2009.

Experts say that environmental protection, economic growth and job creation are complementary and compatible.

STATE OF BIZ
Continued on Page 12

False claim lawsuit against PBS&J, Parsons Corp. unsealed

By DAN MILLOTT

A false claim lawsuit filed in late 2010 by a former employee of engineering giant Post, Buckley Schuh & Jernigan has been unsealed by an Orlando federal judge.

The action was filed on behalf of Kermit Prime, Jr., PE, DEE, a former senior vice president of PBS&J.

Prime's attorney, David Oliver, said the action filed on Dec. 29, 2010, was immediately sealed and was confidential, giving the Justice Department and U.S. Attorneys Office time to investigate and ascertain if they wanted to intervene on behalf of Prime.

The suit claims that PBS&J and

their project joint venture partner Parsons Corp. over-billed the U.S. Army Corps of Engineers \$25 million on Everglades restoration work.

Oliver said the suit was unsealed when the government declined to intervene in the action. Both Parsons and PBS&J have been served and each had 20 days to respond.

"After the responses come from the defendants, there will be depositions taken, documents gathered and if there is no settlement, it would move to a jury trial in federal court," Oliver said.

The engineering services provided by the two firms took place between

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EIP releases additional list of leaking coal ash impoundments

Staff report

The Environmental Integrity Project has identified 20 additional coal ash impoundments that have released toxic chemicals to groundwater. The Southern Co.'s Christ Plant in Pensacola is one of 20 plants spread among 10 states identified in the report.

EIP numbers were based on U.S. Environmental Protection Agency and state agency data. Listing in the report depends on the value of the maximum observation during the reporting period, and those maxima are listed in the report.

Pensacola's Crist Plant had four contaminants listed above criterion levels: arsenic, 35 parts per billion (10 ppb is the maximum contaminant level); cadmium, 16 ppb (5 ppb is the maximum contaminant level); manganese 1.3 parts per million (0.3 ppm is the health advisory level); and sulfate 930 ppm (500 ppm is the health advisory level).

The other states among the 10 include Georgia, Iowa, Illinois, Kentucky, Nevada, South Carolina, Tennessee and Texas. Illinois had the most new sites with seven.

Among southern states, South Carolina, with three new impoundments, was the leader. Georgia made the list with a

single site.

In 2009, the EPA documented 67 verified or potential cases of groundwater contamination cause by inadequate coal combustion waste disposal.

In 2010, EIP published an analysis which identified 70 additional sites with evidence of groundwater or soil contamination due to coal combustion ash and waste.

Nationwide, 157 sites including those identified by the EPA and the Environmental Integrity Project have been identified. EIP says their goal is "proper federal oversight" of coal combustion waste disposal.

Environmental justice grants. Florida organizations did well in competition to garner a share of the more than \$1 million that EPA Region 4 awarded in environmental justice grants.

Protect Gainesville Citizens received \$50,000 in a two-year grant to research exposures to contaminated house dust and explore methods to reduce its impact on public health.

The Suwannee River Area Health Edu-

cation Center of Gainesville received \$25,000 to assist 300 low income residents in Gainesville whose neighborhoods have elevated levels of dioxin and arsenic.

Finally, the Institute for Community Collaboration in Hollywood will receive \$25,000 for an after school service learning project to teach how to create and maintain local healthy food resources.

Nationwide, 46 grants were awarded to nonprofit and tribal organizations. The EPA also announced that a similar amount of grant funding will be available for the 2012 grant cycle for the program.

The closing date for applications is Feb. 28, 2012. Application information is available on-line at <http://www.epa.gov/environmentaljustice/grants/index.html>.

EPA vessel permits. The EPA is proposing to substantially modify its Vessel General Permit required by the Clean Water Act for all boats and ships. Currently, all ships are covered by this permit under a program initiated in 2008. The EPA proposes to divide this one-size-fits-all permit into two new permits.

The first of the two, the newly proposed Vessel General Permit, will be for commercial vessels greater than 79 feet in length.

This proposed permit will regulate 26 specific discharge categories already in place through the 2008 permit. It will also include some substantial new provisions.

For the first time, discharge of fish hold effluent will be under the purview of the rule. In addition, a new numeric standard to control release of non-indigenous invasive species via ballast water discharges is also part of the permit.

The provisions for ballast water discharge are, according to the EPA, generally consistent with those contained in the International Maritime Organization's 2004 Ballast Water Convention.

Boats smaller than 79 feet in length will be covered by the Small Vessel General Permit, the second new permit currently proposed by the agency. The proposed permit will update conditions for mechanical systems that may leak lubricants and exhaust gas scrubber wash water.

These new provisions will reduce loadings of oil and other water pollutants from small boats operated in U.S. waters.

Currently, all ships are covered by a single permit, the 2008 Vessel General

Permit. This five-year permit granted to all conforming vessels will expire in 2013, five years after its issuance. The EPA proposes to replace this single permit with one of the two described above.

The vessel discharge permitting program has been somewhat controversial. Congress exempted all incidental discharges from such vessels with the exception of ballast water after the EPA issued its first permit requirements in 2008.

The EPA proposed that the new rules, if approved, will not go into effect until after Dec. 18, 2013, when the congressional moratorium ends.

EPA enforcement summary. As a result of fiscal year 2011 enforcement activities, violators of environmental rules and regulations are obliged to invest \$19 billion to meet environmental performance and compliance goals, according to EPA's annual enforcement and compliance results. \$3 billion of that total will go to the clean up of hazardous waste in communities.

In terms of quantity, the enforcement actions are expected to reduce by 1.8 billion pounds harmful air, water and chemical pollution. 3.6 billion pounds of hazardous wastes will be the subject of remediation efforts leading to destruction or proper disposal.

The EPA assessed \$168 million in civil penalties—\$152 million in federal penalties and \$16 million in joint actions between EPA, states and local governments.

Fines and restitution from successful prosecution of environmental crimes added \$35 million more. \$2 million in court-ordered environmental projects was also levied.

As a further deterrent against environmental crime, guilty individuals received a combined 89.5 years of incarceration.

The EPA enforcement report noted that the agency focused on enforcement actions that addressed the largest pollution problems with the greatest community impact.

Settlements engender a substantial increase in pollution cleanup and investments in future pollution control.

The agency highlighted its settlement with the Tennessee Valley Authority, which could lead to up to \$27 billion in annual health benefits and provide \$350 million for environmental projects to benefit communities.

2012 renewable fuel standards. For 2012, the overall volumes and percentage of total use standards for four categories of transportation fuels are as follows: biomass-based diesel, 1.0 billion gallons, 0.91 percent; advanced biofuels, 2.0 billion gallons, 1.21 percent; cellulosic biofuels, 8.65 million gallons, 0.006 percent; and total renewable fuels, 15.2 billion gallons, 9.23 percent.

The EPA sets these volumes and standards under the Energy Independence and Security Act of 2007. That act established the agency's Renewable Fuel Standards program, RFS2.

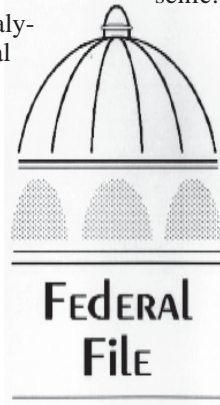
EISA has a mandated goal of 36 billion gallons of renewable transportation fuels by 2022.

Each year, the EPA calculates a percentage-based standard for the following year. These standards are then used by refiners and importers to help determine the minimum volume of renewable fuel that must be used in its transportation fuel blends in order to meet the standard.

The 2012 standards require an additional 1.25 billion gallons of renewable fuels be used in transportation fuel blends than was used in 2011.

The EPA proposed its 2013 renewable fuel standards at the time it finalized those for 2012.

The agency proposed 1.28 billion gallons for biomass-based diesel for 2013. The agency will base its final number for that category after considering comments



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The *Florida Specifier* (ISSN 0740-1973), founded in 1979, is published each month for \$24.95 per year (\$49.95 for three years) by National Technical Communications Co., Inc., P.O. Box 2175, Goldenrod, FL 32733. Subscription refunds are not provided.

Standard postage paid at Orlando, FL 32862. **POSTMASTER:** Send address changes to the FLORIDA SPECIFIER, P.O. Box 2175, Goldenrod, FL 32733.

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Workers settle legal battle over TCE health impacts

Staff report

Dozens of former factory workers have settled a five-year legal battle with Siemens Corp. and General Dynamics Corp. over toxins they allege the companies dumped into drinking water, causing them to develop cancer.

Employees regularly used chemicals such as trichloroethene to manufacture and clean circuit boards and other equipment at the plant.

In 2001, Siemens AG, the facility's operator at the time, ordered employees to stop drinking the tap water after it discovered TCE had contaminated it.

Workers had poured the used TCE into 55 gallon drums that eventually rusted and leaked onto the property, and sometimes disposed of it down drains and sinks, according to the lawsuit.

The chemicals seeped into groundwater beneath the plant and was pumped back inside, where for years employees used it to wash their hands and brew coffee.

Mine blocked. Environmental activists won a favorable court ruling against Palm Beach County and Rinker Materials of Florida.

The Fourth District Court of Appeal blocked plans to build a proposed mine, finding there was not enough evidence to prove aggregate from the mine would be used for either agricultural or public road-building projects.

Rinker, doing business as Cemex, wants to dig nearly 4,000 acres over 38 years in the area south of Belle Glade and west of State Road 827. The resulting mining pits would be used to store water.

Activists filed suit to block the mine, claiming that Palm Beach County commissioners failed to assess the mine's effect on the environment and that the mine did not conform to the county's comprehensive plan.

Sludge facility planned. VitAg Florida LLC, a firm that converts sludge into commercial fertilizer, wants to build a 40,000-square-foot plant in Zellwood, north of Orlando.

The planned \$70 million facility is the first step in a plan that could include two more similar plants and another \$140 million investment.

Work on the Zellwood plant could start in the first quarter of this year, and would take up to 18 months to complete.

Sludge deal approved. The village of Wellington in Palm Beach County has reached a deal to sell its sludge to the South Dade Soil and Water Conservation District for about \$52,000 a year.

Once production starts around Feb. 1, the village will no longer have to pay to dispose of the Class B sludge it has been producing. That will yield savings of over \$200,000 a year.

The Solid Waste Authority of Palm Beach County launched a Class AA sludge-drying process much like Wellington's a few years ago. It serves Palm Beach County's wastewater utilities, the city of Boca Raton, the Loxahatchee River Environmental Control District, Seacoast Utilities and the South Central Regional Wastewater Board.

New England Fertilizer designed, built and now operates the plant. It also markets the pellets, which go mainly to companies that blend them into fertilizers.

Wellington's wastewater plant is undergoing a \$22 million expansion, which includes about \$2.5 million for the sludge drying process. The plant will be able to handle wastewater from about 61,000 people. It now serves about 51,000.

Restoration funded. Gov. Rick Scott proposed restoring some level of funding for environmentally sensitive lands in the state. The proposal would put \$40 million back into Everglades restoration.

This year, the state allocated \$30 million to the Everglades cleanup project. The governor also proposed putting \$15

million into the Florida Forever program.

But at the same time, Scott also suggested shrinking the Florida Department of Environmental Protection with a proposed cut of more than 80 vacant positions and by reducing its annual budget by about \$100 million.

Tunnel fill permit cut. DEP has issued a soil management permit to Miami Access Tunnel, the international consortium building the \$1 billion Port of Miami tunnel on Virginia Key.

The permit allows contractors to deposit up to 280,000 cubic yards of fill on the key's North Point, where the city of Miami plans to use it for environmental restoration projects.

The soil permit was cut just after the massive tunnel-boring machine began digging the tunnel at the center of Watson Island.

After testing, the material drilled from the ground was graded as clean fill. Testing of samples will continue throughout the dig to ensure any material placed in the bay is clean.

Miami Access Tunnel had withdrawn an earlier plan for depositing soil on Vir-

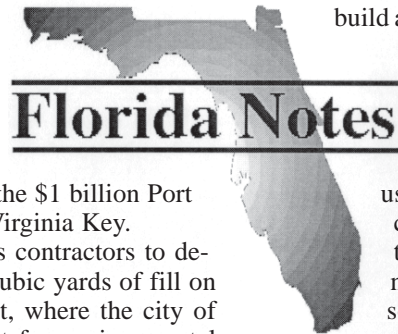
ginia Key after concerns expressed over the tunnel dirt and testing protocols from activists and leaders in nearby Key Biscayne.

The city of Miami, which plans to convert the island's North Point into a park and athletic fields, wants the soil to cover an old toxic landfill on the site and build a berm to conceal the nearby county sewage treatment plant from visitors.


Concerns about the material centered on the tunnel-boring machine's use of lubricants and chemicals sometimes injected into the porous limestone beneath the bay bottom to soften the rock for drilling.

Mine lawsuit filed. Troyer Brothers Inc. has filed a lawsuit in an attempt to overturn a decision by county commissioners that rejected an 1,800-acre rock mine near Lehigh Acres.

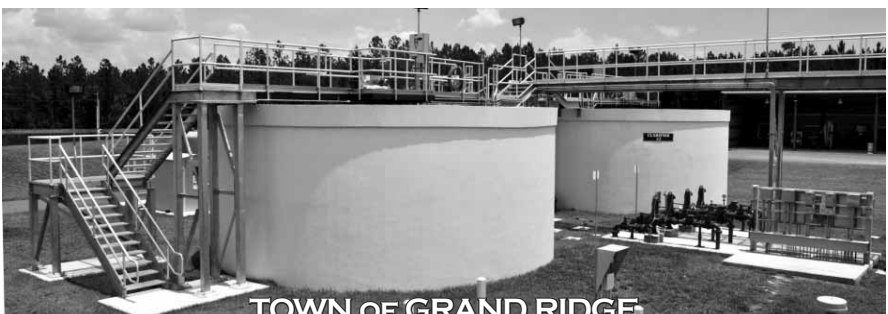
In November, Lee County commissioners denied the project after hearing extensive testimony from residents who complained the mine would create noise,




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Escambia awarded \$2M grant for completing Maplewood drainage project

Staff report

Escambia County has been awarded nearly \$2 million for their Maplewood drainage project. The first phase of the project was completed in 2010.

The project experienced delays when the Escambia County Commission reversed itself on a bid. They learned one bidder, Roads Inc., submitted a proposal that was in error and was not the low bid.

The commission initially sought to have the job rebid, but later reversed itself and gave the job to the original low bidder, Gulf Equipment Corp.

The \$1.98 million hazard mitigation grant will reimburse the county for the \$2.5 million estimated cost of the first phase.

Efforts to complete the drainage project have been ongoing since 2003, but the lack of funds prevented the county from completing the job.

Biomass water use. A city of Gainesville biomass plant now under construction will use 1.4 million gallons of water a day.

The 100-megawatt Gainesville Renewable Energy Center will be fueled by wood waste when it comes on-line in 2013. The plant is being built at the city's Deerhaven

Generating Station.

Deerhaven currently uses 2.5 million gallons of water daily to produce just over 400 megawatts of electricity in its coal and natural gas burning units.

Due to the amount of water needed at the facility, the Suwannee River Water Management District is encouraging the use of as much reclaim water as possible.

Through an agreement with GREC and the city of Alachua, a large portion of the city's reclaimed water will be pumped to the plant.

There, it will be filtered, combined with water pumped from the aquifer and then sent to the plant's cooling tower.

600,000 gallons per day would come from Alachua and 800,000 per day from the aquifer.

Alachua recently opened a \$20 million wastewater facility that can treat 1.5 million gallons a day, a capacity increase of 500,000 gallons per day over the old plant.

Peace River projects. Two Southwest Florida Water Management District projects designed to improve water qual-

ity and keep portions of the Peace River from running dry as often are underway.

One project targets the 4,553-acre Lake Hancock, Polk County's fourth largest lake. It is a wide spot in Saddle Creek, one of two major tributaries at the headwaters of the Peace River.

The lake is choked with sewer and industrial plant effluent and stormwater runoff from a 135-square-mile drainage basin from Saddle Creek, Banana Creek and Lake Lena Run. The water is green with algae and fish kills are frequent.

The first project, started in September, seeks to improve water quality.

A series of filtration marshes are being constructed in old phosphate settling ponds built decades ago on Hancock's southeastern shore. The plan calls for pumping water uphill into the filtration marshes and then releasing it downstream.

The other project calls for building a higher control structure on Saddle Creek. That will allow water managers to release more water into the Peace River when higher river levels are needed.

The plan creating three filtration marshes will cost \$28.5 million. It calls for pumping 38 million gallons a day into the marshes.

As the water flows through the marshes, natural processes will remove about 174,000 pounds of nutrients per year, according to SWFWMD engineer Janie Hegberg.

Tarpon Springs utility reorg. City of Tarpon Springs technicians working on water lines have one year to become licensed water distribution operators under a proposed reorganization of the city's water plant operations.

According to city Public Works Director Tom Funcheon, the licensing requirement and reorganization was the result of regulatory rules imposed by the Florida Department of Environmental Protection.

The city commission approved the reorganization plan in late December and provided for a 10 percent increase in salary for technicians who become licensed.

Earlier in 2011, DEP mandated that a technician working on a water distribution line two inches wide or greater would have to be licensed and certified.

Corps releases Lake O water. In a move to replenish the Caloosahatchee estuary, the U.S. Army Corps of Engineers recently released water from Lake Okeechobee.

The plan called for the corps to release water in a pulse-like manner to mimic natural rainfall.

The Caloosahatchee estuary drains a watershed in Southwest Florida stretching from Lake Okeechobee on the east to the Gulf of Mexico on the west.

Since last winter's drought, the level of Lake Okeechobee has climbed to 13.78 feet above sea level from 12.52 feet a year ago. The historical average for mid-December is 14.73 feet.

The release action was carried out over a week's time during December.

John Kilpatrick, multi project branch chief for the corps in Jacksonville, said the salinity level at various gauges and the general level of the lake dictated the water release for environmental purposes.

He said further releases would be considered on a case-by-case basis.

Despite the brief release of water, South Florida Water Management District officials emphasized that the water shortage warning is still in effect for the 16-county region.

Miami-Dade beach pollution. Miami-Dade County officials warned against swimming at three beaches when traces of fecal pollution were discovered.

The beaches with no-swimming advisories were Crandon Park South on Key Biscayne; North Shore Park, 74th Street and Collins Avenue in Miami Beach; and Sunny Isles Park, 174th Street and Collins Avenue in Sunny Isles.

The advisory was issued when two consecutive samples at each beach exceeded the U.S. Environmental Protection Agency recommended standard for enterococci, 104 colony-forming units per 100 milliliters of marine water.

The results indicate that water contact could cause illness. The state Department of Health is required to issue an advisory when such conditions are detected. No other beaches in Miami-Dade showed problems.

Palm Coast power lines. The Palm Coast City Council decided to install power lines to 12 new water wells after Florida Power & Light opted out of the project.

The council still has to approve a \$136,337 contract for electrical work. The work is part of a project to supply more water to a city water treatment plant.

The city-installed power lines for the wells will be placed along a city easement on Rayonier property, something the city can do, but FP&L, under law, cannot.



Florida Specifier

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SJRWMD on track to release river water withdrawal study results

By ROY LAUGHLIN

Since 2009, the St. Johns River Water Management District has supported a large research project, run hydrologic models and gathered other data to analyze and evaluate the consequences of withdrawing up to an additional 262 million gallons per day from the Upper St. Johns River.

This volume is an estimate of available water made a few years ago by water management district planners. Environmental activists asked for and received this more extensive comprehensive analysis with oversight from nationally ranked scientists selected by the National Academy of Sciences.

During that time, a committee of the NAS' Science Advisory Board worked closely in an oversight capacity to assure that the effort, called the Water Supply Impact Study, is transparent, extensive and meets the highest scientific and technical standards.

During the two-year report preparation, SAB members wrote publicly available critiques that guided additional research, led to the inclusion of additional topics in the report and provided qualified oversight of the study in progress.

In December 2011, the advisory board released its fourth and final critique of the maturing study assessing the environmental effects of the proposed substantial additional water withdrawal from the St. Johns.

Review members found that "the overall strategy of the Water Supply Impact Study and the way it was implemented were appropriate and adequate to address the goals the district established in the study."

Reviewers urged a few specific topics be included, such as the influence of sea level rise on salinity in the lower St. Johns River, human population expansion and urban development. These factors will not act in isolation. Water withdrawals in the Upper St. Johns could reduce flows at the mouth with the result that marshes would become increasingly salty as sea level rises and freshwater mixing falls.

SAB advisors also addressed a specific set of assumptions about water quality and water quantity.

Urbanization leads to an increase of runoff but the runoff is of poor water quality. Expanded urbanization, especially in Brevard and Volusia counties is expected. Some of that extra water will be available for withdrawal.

Report advisors noted that urbanization may dramatically affect specific tributaries, and that reduced water quality will have an impact on ecological processes that the impact study addresses in great detail.

Some of the factors that will influence future water quantity and quality are outside the district's authority to control. Changing land use patterns toward urbanization, typically controlled by local comprehensive plans, is one example.

The real issue in evaluating this report's utility is how well models, typical conditions characterized in the report, and reasonable predictions and expectations will contribute to resource management under extreme conditions.

Some people believe that Florida may be entering a period of longer and more severe droughts, compared to conditions present from 1900 to 1990.

The report noted that in so far as the minimum flow limit regulations restrict withdrawals allowed during low flow periods, the committee maintains concern as to whether they will be rigidly enforced in the future.

If there is an extended drought in the future, water suppliers might not be able to withdraw water from the river for months or even years on end.

This point made by the reviewers is a cautionary reminder that at times the St. Johns River will not be a reliable source

of water, a condition that should be anticipated rather than revealed as a source of surprise as the inevitable occurs.

The blistering pace of urban growth during the first half of the last decade was the reason the SJRWMD suggested the need to eventually pull 262 mgd from the river.

But based on the pace of development over the past six years, there may never be a need for this water in the life time of anyone reading this. If development should ever create a need, this Water Supply Impact Study will provide an analysis to help successfully manage the St. Johns River's water resource.

The study is on schedule for submission to the district's governing board at their February meeting.

"The report and its findings provide a body of advanced science and analysis to evaluate future permit applications seeking to withdraw water from the river," said Hank Largin, public communications coordinator for the district.

He also noted that the report will benefit local governments, the public, the water management district and water utilities, all of which are involved with water use decisions.

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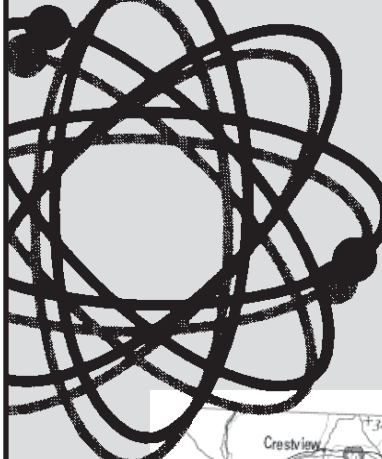
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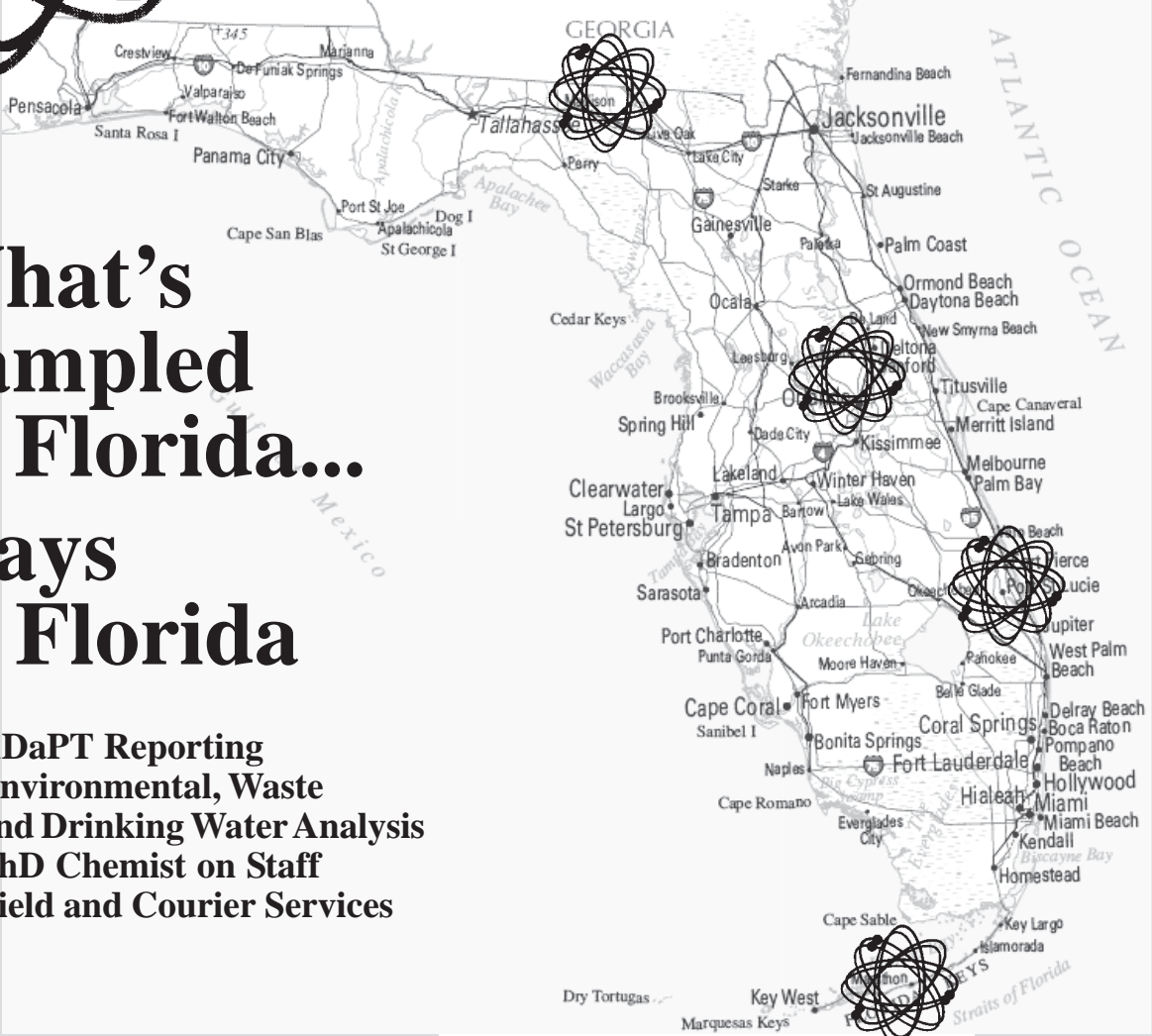
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Barkett

Barkett to Keynote FRC-South

We welcome environmental attorney John Barkett with Shook Hardy & Bacon LLP as our 2012 keynote speaker. John is a veteran of past FRC events and has contributed to the pages of the *Florida Specifier*. He has been a partner with SHB since June 2000 following 14 years of practice in a litigation boutique that, in part, bore his name, and 11 years of litigation work at another Miami law firm.

Over the years, he has been a commercial litigator, independent investigator, environmental litigator on CERCLA, RCRA, Clean Water Act, NEPA, and toxic tort cases, environmental counselor (common counsel at major Superfund sites, and advisor on real estate, loan and merger, and acquisition questions involving environmental issues and assessments), and, for the past several years, a peacemaker and problem solver, serving as an arbitrator, mediator, facilitator or allocator in a variety of substantive contexts.

He has served or is serving as a neutral in over 50 matters involving in the aggregate more than \$400 million. Among these matters, John has served as a neutral in five large multi-party environmental cases, where he supervised all discovery, including personally conducting depositions/interviews of witnesses, and prepared findings and conclusions that served as the basis of settlement; and has conducted ad hoc arbitrations as well as arbitrations under CPR, AAA, and ICDR rules.

Over a several year period, John also successfully facilitated the resolution of in excess of 2,000 claims against potentially responsible parties in connection with two used oil Superfund sites in Florida.

In November 2003, John was appointed to serve as the special master to oversee the implementation and enforcement of the 1992 consent decree between the United States and the state of Florida relating to the multi-billion-dollar restoration of the Florida Everglades.

In addition, we have a full slate of technical and regulatory presentations lined up including a regulatory panel discussion moderated by Glenn MacGraw, PG, a vice president with The FGS Group in Tallahassee. Panel members include officials from Miami-Dade and Broward counties, and DEP's South District office.

Another panel discussion will focus on the state ADA/PT program from a user's perspective. ADA/PT is now required when reporting analytical site data to DEP for their solid and hazardous waste programs and is expected to soon be required for other waste cleanup programs including the tank cleanup program.

Completing our 2012 technical agenda will be presentations on tools and techniques for soil and groundwater cleanup of particular interest to environmental professionals working in South Florida. The complete agenda will be available in the March issue of the *Florida Specifier* and online at www.enviro-net.com.

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Research indicates local mercury sources can be fingerprinted

By ROY LAUGHLIN

A group of researchers from the University of Michigan led by Laura S. Sherman has utilized a novel sampling and analysis methodology to show that, at least for one site on Florida's Gulf Coast, most of the mercury deposited in rain comes from one source.

The research was done near Crystal River where a large coal burning power plant operates. The researchers sampled rainwater and used mercury isotope composition to fingerprint the mercury collected in their samples.

In addition, the group collected samples of mercury in rainwater in other Florida locations for comparison. Analysis showed that mercury isotope fingerprints from samples around Florida demonstrated distinct regional differences.

Those from Crystal River were sufficiently distinct to represent a prime source, presumed to be mercury released during coal burning at the plant.

Mercury is ubiquitously present in the atmosphere as a vapor at parts per billion in a cubic meter. Rainfall is a significant scavenging process that removes mercury vapor from the atmosphere and eventually deposits it in aquatic ecosystems.

Biological methylation produces organic mercury compounds prone to bioaccumulation. In Florida, health advisories to limit the consumption of fish from portions of the Everglades and other areas are common.

Florida's mercury contamination was recognized first in the 1980s, at a time when development was rapidly changing wetlands, incineration of municipal wastes was increasing local atmospheric mercury inputs, and shifts to coal for generating electricity to meet increasing demands were all possible causes.

The larger question was whether the changes, including increased atmospheric mercury inputs, were changing mercury dynamics or simply loading the system. This research suggests that local loading can be moved from a cause of interest to a suspect cause.

The current research cleverly relies on identifying mercury sources based on the isotopic composition of the metal collected in rainwater samples. Mercury has seven stable isotopes ranging in mass from 196 to 204 atomic mass units. Isotopic composition is known to vary among mercury sources in the atmosphere, minerals such as pyrite, and fossil fuels.

The ratios of the seven isotopes in rainwater samples could be used, the researchers hypothesized, to "fingerprint" the source of the mercury scavenged by rainwater. In order to be useful, the isotopic ratios needed to be sufficiently different and consistent over broadly spaced aerial sample sites. This requirement was essentially met.

Analysis showed that mercury isotope ratios in rainwater samples collected throughout Florida were distinguishable and adequately consistent in a region. Samples collected from air masses originating over the Gulf of Mexico were discernibly different from those collected over land. Most importantly, samples collected around Crystal River had mercury isotope ratios that were distinct to the area, and consistent with in a radius around the Crystal River plant.

"Our results are very intriguing," said Sherman. "We were able to trace mercury emissions from the power plant in Crystal River to our collection sites."

Because the researchers did not sample mercury in either the source fuel for the utility boiler or the stack emissions from it, they cannot say with certainty what factors modify mercury isotope composition of stack gasses.

"We would like to understand mercury fractionation within the power plant system and would like to measure the isotopic composition of the emissions prior to any atmospheric processing," she said.

SFWMD looks to Lower Floridan Aquifer as potential water source

By PRAKASH GANDHI

South Florida water managers are hoping the Lower Floridan Aquifer could become one of the solutions to the never-ending challenge of finding enough water for a growing population.

Workers with the South Florida Water Management District are currently drilling test wells up to 2,700 feet deep in previously unexplored portions of the massive aquifer.

Officials with the district have approved a contract for additional well drilling and testing, continuing an exploratory program that was launched last year.

To meet future water demand, alterna-

ASCE study: More infrastructure investment needed

By DAN MILLOTT

Broken water mains and bursting sewer lines may become more commonplace if the rebuilding of water and sewer infrastructure is continually pushed to the back burner, according to a study released by the American Society of Civil Engineers.

The study warned that aging water infrastructure could cost U.S. businesses \$147 million and the loss of 700,000 jobs over the next decade.

The work was a combined effort of the Economic Development Research Group and Downstream Strategies.

Dubbed "Failure to Act," the study said America's water and wastewater infrastructure systems are aging and overburdened. Many were built before the turn of the century.

It warns that unless investments are made by 2020, unreliable and insufficient water infrastructure will cost the average American household \$900 a year in higher water rates and lower wages.

The study said that a modest ongoing investment in drinking water, wastewater and water management can help prevent economic losses. But taking no action could balloon those needs to \$84 million.

Currently, the annual investment in water infrastructure is \$36.4 billion. That is far less than the \$91 billion per year the study said will be needed to catch up. If an additional \$9.4 billion is invested annually until 2020, the study said businesses and households would avoid \$21 billion in added costs.

Businesses impacted the most negatively would be retail, restaurants, bars and the construction industry. The greatest job losses would show up there due to aging water infrastructure.

Steven Landau, director of strategy planning at EDR and the lead author of the report, said we already see impacts of aging water infrastructure including broken water mains and boil water alerts.

In Miami, for example, an aging sewer line that connects Miami Beach and other beach communities with a sewer treatment plant on Virginia Key needs to be replaced. But the project is now on hold.

The sewer line passes under Government Cut, the main shipping channel used by cruise ships and other vessels entering and leaving the Port of Miami.

The age of the pipeline is the first concern, but the planned dredging of the channel and what that might do to the line is another issue.

Miami-Dade officials said the current line is sound enough to remain in daily use, but an ongoing \$32 million project to replace the line could become more complicated and expensive due to the current dredging project.

While ASCE projects the need for more spending on water and wastewater infrastructure, it also suggests that businesses can help by adopting sustainable practices, such as increased efficiency via process and equipment changes, water reclamation, and green infrastructure that better addresses water management.

tive water sources such as the deep Lower Floridan are being explored.

"The district has been looking at alternative water supplies," said Chris Sweazy, lead hydrogeologist with the agency. "We have been trying to see how much water we might be able to extract for future water supply."

"We recognize that the Lower Floridan Aquifer has limited groundwater availability. But we need to find sources that we don't currently have."

Drilling sites include locations in Osceola and Polk counties.

"We also realize that there are challenges here," Sweazy said. "It's a deep location and that makes it expensive to drill for water there. We know there will probably be some brackish water in some of the deeper areas. We are just trying to find out how much freshwater is available."

Data from the wells will be provided to the Central Florida Water Initiative, a partnership of utilities, stakeholders, and the South Florida, St. Johns River and Southwest Florida water management districts.

The initiative's goal is to gather information on alternative water supply that may potentially increase regional water supplies and improve the ability to pro-

tect natural systems.

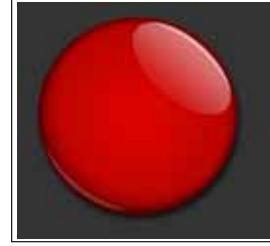
The Floridan Aquifer system is the main source of groundwater in the Kissimmee Basin. The permeable zones of the Upper Floridan are the main portions used for water supply. Much less is known about the deeper portions of the aquifer.

Research underway will help determine the aquifer's depth, water quality and

other factors that will identify its potential long-term sustainability as a water resource, said water management officials.

South Florida officials said that by compiling and evaluating data from the test wells, the district and partner agencies will have a clearer picture of how the Lower Floridan Aquifer operates and how to better manage and protect the region's water.

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New Riverkeeper will continue to press hard for St. Johns' protection

By BLANCHE HARDY, PG

Within the past decade, anyone having a connection to the regulation of and water quality in the St. Johns River knows Neil Armingeon.

Since 2003, Neil served as the St. Johns Riverkeeper. Frequently outspoken and always passionate, Armingeon worked tirelessly to preserve all that the river provides to the citizens and ecology of the

state. He didn't just go to the mat for the river, he embraced it. Heaven help you if you thought you could get away with degrading the river system without a good old fashioned knock-down, drag-out fight.

But as Neil said recently, "The torch is passed." And with his blessing, Lisa Rowe Rinaman was named to carry on the work of the St. Johns Riverkeeper.

Rinaman is a former policy director for the city of Jacksonville and aide to former Jacksonville Mayor John Peyton.

She has considerable lobbying experience including involvement in water quality and conservation legislation, and served as a member of the St. Johns Riverkeeper Water Policy Group for the past two years.

We recently interviewed the new Riverkeeper.

Specifier: The Florida Everglades now has the attention of the governor who recently said restoration funding will continue. What can Floridians do to get more state and federal attention focused on the significant environmental issues of the St. Johns River Basin?

Rinaman: "It is critical that Floridians understand the economic impact and value of the St. Johns River. Thousands of jobs are created by the river. Riverfront property fuels the real estate industry and produces millions in property taxes. Tourism and recreational activities provide tremendous economic benefits to local communities. As a result, St. Johns Riverkeeper and the St. Johns River Alliance are working with the St. Johns River Caucus created by Senator Thrasher to secure funding for an economic impact study. This study will provide current data illustrating the economic strength of the St. Johns River and the expected return on each dollar utilized to protect and restore the river. We also need to do more to raise awareness about what an ecological gem we have in the St. Johns River and how it is on par with other great rivers and ecosystems around the country."

Specifier: Will we be able to limit the number of utility plants along the river that will use water from the St. Johns River as source for drinking water?

Rinaman: "Questions remain about water withdrawals from the St. Johns. We recently reviewed the National Academy of Science's draft final report on the St. Johns River Water Management District's Water Supply Impact Study. (See related story on Page 5.) We have submitted extensive comments to the district on this report. The study clearly notes that there will be impacts to the St. Johns River from water withdrawals. The nearly four-year study leaves as many questions unanswered as those it answers. But one con-

clusion is clear: the study does not provide carte blanche to remove water from the St. Johns River."

Specifier: From your perspective, what are the most immediate issues regarding the St. Johns? On which issues will you hit the ground running?

Rinaman: "Threats to the St. Johns River are many: nutrient overloads, potential water withdrawals, plans to deepen the river's channel, the Georgia-Pacific pipeline and the weakening of environmental regulations. Our staff will continue to focus and hit hard on these critical issues. In addition, we have a highly effective legal team in place that I will work with to ensure that our river is adequately protected. I'm also forming an experienced technical team that will assist us in navigating, addressing and prioritize these pressing issues."

Specifier: We understand that you would like to engage the public in river issues. What sort of programs are you considering?

Rinaman: "The good news is that we already have a talented staff with an array of outreach, education and volunteer programs and activities already developed and in

place or in the works. For instance, we have developed an effective River Friendly awareness campaign, and we offer a variety of boat trips to help connect people to the river. We also have developed a strong network of volunteers, members, donors, and partners throughout the watershed. I will obviously try to take advantage of these existing resources and networks and do my part to recruit and inspire more people to join us in our efforts. Eventually, I would like to explore other ways to get citizens more involved, such as hosting town hall meetings and organizing kayak trips with the Riverkeeper. Citizen involvement is essential if we are to reach our goal of a clean and healthy St. Johns River."

Specifier: Tell us about your plans to build a volunteer technical team. How will the team be utilized?

Rinaman: "I've been working closely with Neil Armingeon and our board to de-



Rinaman

RIVERKEEPER
Continued on Page 9

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NOAA, DOI work to improve implementation of Endangered Species Act

By ROY LAUGHLIN

Two federal agencies propose to define five words in a phrase to make saving species from extinction more effective.

The Endangered Species Act, administered by both the U.S. Department of Interior and the National Oceanic and Atmospheric Administration, includes the key phrase “significant portion of its range.” The meaning of that phrase is not defined in the ESA, although it is referenced in several parts. This will change, perhaps as early as next year.

In background material for the proposal, the two agencies noted that “significant portion of its range” is used in the ESA in statutory definitions of “endangered species” and “threatened species.” Without a stated definition in the ESA, however, agency staff receive criticism for listing decisions that cannot be referenced to the definition in the law.

DOI developed a working definition known as the M-Opinion defining the phrase in the spring of 2007. But absence of a definition within the law itself was not overlooked in lawsuits contesting species listings.

In 2011, DOI abandoned the M-Opinion after two courts found fault with some of its key provisions. The need for a definition, however, remained.

The proposed definition, which will apply to vertebrate taxa, cannot be summarized in a single sentence but is concise about circumstances under which the phrase “significant portion of its range” will apply.

As a general characterization, the definition of the phrase will be used to meet two implied criteria of the ESA. The first

is that the application is “biologically based ... and best ensures species’ conservation.” This component is consistent with Endangered Species Act wording and with prior listing decisions, according to the notice in the Federal Register.

The second component of the proposed change considers “what threshold the Services would use to determine that a portion’s biological contribution to the conservation of the species is so important that the portion qualifies as significant.” Factors such as redundancy or resilience of the species would be considered in determining the second criterion.

In the announcement, DOI and NOAA noted that the new application of the definition creates a higher threshold for application.

“Only distinct populations in a certain portion of a (vertebrate species’) range would be listed,” said Angela Somma, chief of the Endangered Species Division of NOAA’s National Marine Fisheries Service. “That population would have to be both discrete and significant to the total species.”

She used the example of the North Atlantic Right Whale, a specific subspecies occurring off the U.S.’ Atlantic Coast. That distinct sub species when listed is given the operational definition of a discrete species, and its range off the Atlantic seaboard has been designated as critical habitat. Other examples include Steelhead Trout, a subspecies of rainbow trout, and Gunnison’s prairie dog.

A twist in the proposed policy is that it will be limited to vertebrate taxa. This is because the ESA defines such action for listing vertebrate sub species or geographically designated populations of an extensive species.

The entire issue of critical habitat revolves around that particular distinction in the 1973 legislation. Remaining taxa are treated differently. For plants and invertebrates, if the species is endangered in a significant area, it will be listed throughout its range.

The provisions of the proposed policy often seem subtly nuanced as it has to be to cover expansive biological diversity. The two agencies said this raises the bar for listing vertebrates under the ESA. Fewer taxa are likely to receive protection by future listing. DOI noted that fewer newly listed species will benefit all listed spe-

cies by increasing the effectiveness of available funding and effort.

“There’s been a lot of litigation and a lot of interpretations,” said Somma. “It’s just good governance to tell the public how we’re going to interpret this clause and follow court decisions.”

She said that public comment may provide additional insight into language and concepts that might usefully be included in developing the new policy.

No certain date is listed in the announcements for finalizing the policy. But it is not unreasonable to expect it in late spring or early summer, 2012

SRWMD approves more withdrawals

Staff report

The Suwannee River Water Management District approved four new permits allowing the withdrawal of 5.5 million gallons of water daily from the Floridan Aquifer.

Three permits were granted to farms in Gilchrist County. Loncala Dairies was granted the largest permit—3.8 million gallons per day; Piedmont Dairy can extract 900,000 gpd; and the William Doublerly Farm can pump 500,000 gpd. The fourth permit was a 300,000 gpd grant to Coggins Acres in Madison County.

The move did not sit well with area conservationists. Annette Long of Save Our Suwannee said that models used by the water management district to forecast

rainfall in the region are totally off-base.

SRWMD Executive Director David Still said the four permits were approved based on statutory requirements. District staff recommended the approvals and the district governing board signed off with unanimous approval.

Long and other conservationists have questioned the data used by the district in gauging the minimum flow levels of the Suwannee and other streams and springs. She contends they are inaccurate since the region has been in a drought condition for over 10 years.

Still said that the agency is now working on new MFLs for the district’s rivers and springs. They are expected to be released between 2012 and 2016.

RIVERKEEPER

From Page 8


velop a list of potential team members that represent a variety of disciplines, such as ecology, engineering, hydrology and marine sciences. This advisory team of trusted experts will serve as a valuable resource to me, our staff and our board to fully dissect, study and identify solutions to potential issues and threats to the St. Johns River.”

Specifier: Armingeon was very outspoken during his tenure. Do you anticipate proceeding in a similar manner?

Rinaman: “My role is to be an outspoken advocate on issues impacting the St. Johns River. I will continue to be that strong voice for the river. Do I have a different style than Neil? Yes. However, will I do and say what I have to do to protect the river? Absolutely.”

Specifier: How will you utilize your previous policy making experience as Riverkeeper?

Rinaman: “As a policy director for the city of Jacksonville, my strength was taking a complex issue, fully breaking it down, determining needs and opportunities and creating an action plan. I have had the opportunity to use this skill as a volunteer on the St. Johns River Water Policy Team. I’m thrilled to now focus all of my energy, experience and expertise solely on the river.”



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2012 legislative session:

Environmental issues may be overshadowed but 2012 session is worth watching

By R. DUKE WOODSON and KAMI CORBETT

If you believed the hype following the 2011 legislative session, you may think that last year's Community Planning Act obliterated all of the growth management or environmental regulations in the state of Florida. However, the rumors of their death were greatly exaggerated.

As anyone in the development industry knows, the removal of state review of comprehensive plans is just one fraction of the regulatory oversight that stands between a vacant site and a shopping center. Accordingly, notwithstanding the "sweeping reform" last year, there are those who remain frustrated by restrictive regulations and duplication in permitting requirements.

Many of those who are most frustrated work in places where the regulations imposed by local jurisdictions are more stringent than those imposed by the state. Examples include, but are not limited to, places like Sarasota County, Hillsborough County and Collier County.

However, the House of Representatives made it quite clear last year that it did not want to see legislation this year that would return to a system of state oversight. The more likely scenario for this year is that the House will be asked to consider not much more than a "glitch" bill for last year's Community Planning Act, along with a handful of additional reform suggestions to further facilitate the streamlining of regulations.

The glitch bill (SB 842) formally deletes the statutory reference to the Department of Community Affairs and replaces it with the Department of Economic Opportunity formed by Gov. Rick Scott earlier this year.

It also provides a "fix" to a legal problem created by last year's bill when it prohibited all local voter referenda on growth management. The revised statutory language permits charter local government that had voter initiatives or referenda on growth management issues in place prior to the enactment of last year's legislation to retain those charter provisions.

One topic that is not going to be addressed in the glitch bill is the issue of the calculation of proportionate share payments for transportation concurrency. Last year, the Legislature once again attempted to clarify that an owner or developer may be held responsible only for its fair share of the impacts on the transportation network.

For property owners this is a clear issue: if the road fails with or without my project traffic, then I should not have to pay for a roadway improvement. For local governments, particularly those in urbanized areas that developed prior to the time that transportation concurrency was a glimmer in a planner's eye, this issue is more vexing. Any attempt to include a specific formula in last year's legislation seemed as though it might jeopardize the passage of the overall bill, so instead of a formula, the legislation directed the Florida Department of Transportation to issue a report to the Legislature on the subject.

On Dec. 15, 2011, FDOT issued the report that indicated that further legislative action is likely necessary to clarify how the calculation should be made, but it also said no action should be taken this year, because many local governments are still trying to determine what to do with their newfound freedom from the state mandate for transportation concurrency.

Developments of Regional Impact are the subject of a bill (SB 1180) filed by Sen. Mike Bennett of Sarasota. The proposed legislation limits the scope of review by state agencies and eliminates the need for review of regional impacts to affordable housing and hurricane preparedness, unless there is a local regulation mandating the review of those items.

It also loosens the standards on further regional review of changes to a DRI, provided that the change does not cause an increase in the traffic generated by the DRI or cause a decrease in conservation and open space within the DRI. Expect cities, counties and regional planning

councils to watch this legislation very carefully.

Sen. Bennett also filed a companion bill (SB 912) to a bill filed by Rep. Mike Weinstein (HB 603) that imposes a statewide moratorium on school and transportation concurrency and prohibits the imposition of school and transportation proportionate share payments and impact fee payments for a period of two years, unless authorized by a two-thirds vote of a local government.

As is typical in any session, there are a number of bills that involve, relate to and touch on environmental matters. One of the most notable to date is Committee Bill HB 7003 (formerly known as PCN ANRS 12-02) coming from the Agriculture & Natural Resources Subcommittee chaired by Rep. Trudi Williams, and its Senate companion bill, S 1354, filed by Sen. Nancy Detert. Both bills direct the Florida Department of Environmental Protection to coordinate with the water management districts to draft statewide rules for environmental resource permitting. The purpose is to provide statewide consistency in implementing criteria and standards for permitting that are not based on differences in geography or natural characteristics.

Another notable development with environmental regulations is that in December the Florida Environmental Regulation Commission unanimously approved the DEP's numeric nutrient criteria. The draft rules (62-302

F.A.C. and 62-303 F.A.C) provide for water-body specific numeric nutrient criteria for nitrogen and phosphorous levels in the waters of Florida.

This is the next phase in an ongoing battle between environmental advocates and just about everyone else in the state (including but not limited to DEP, the Florida League of Cities, the Florida Association of Counties, utility providers, cattle farmers and developers).

The next step for the proposed regulation is ratification by the Legislature. However, environmental advocates are already taking steps to challenge the rule, so it is unlikely that this issue will reach final resolution any time soon.

Generally speaking, it is too early to predict which of these proposals (other than the glitch bill, which provides relatively minor changes) will pass this session. Although growth management and environmental changes tend to get a lot of media attention during the typical legislative session, it is more likely that this session will be dominated by news about redistricting, education and, of course, destination resorts. It may end being a relatively quiet session this year, but it is certainly still one worth watching.

R. Duke Woodson is a partner with Foley & Lardner LLP and heads the firm's Real Estate Practice in Orlando. He can be reached at dwoodson@foley.com. Kami Corbett is an associate with Foley & Lardner LLP in Tampa. She can be contacted at kcorbett@foley.com.

Petroleum cleanup: Test drive your site model before choosing your options

By LAURA GIMPELSON, PE

The model of a typical Florida petroleum program site assumes the source area of contamination is the former or current tankhold, the plume's downstream distribution is due to hydraulic gradient, high vapor readings indicate high soil contamination, and variations in groundwater elevations desorb the petroleum plume throughout the smear zone.

In this typical Florida model, groundwater levels fluctuate between four and eight feet below grade and do not contain free product. Vertically, the groundwater plume extends 20 feet underneath the source area but is limited to 15 feet downgradient of the source area.

Soil is usually composed of fine to medium-grained sand mixed with silty sands and sandy silts, and clay or limestone is encountered when installing the last two feet of the deep monitoring wells.

But in our sample site, the former tankhold is not the source area. The detected chemicals of concern within and adjacent to the tankhold are below cleanup target levels. Analytical and field data indicate that the former dispensing islands located 150 feet downgradient of the former tankhold area are the contamination source area with soil and groundwater COCs above several natural attenuation default values, especially total hydrocarbons and naphthalene.

In the dry season, a sheen was observed in the samples from the shallow monitoring wells located just downgradient of the source area. No sheen was observed in the former tankhold and downgradient shallow and deep monitoring wells.

Analytical data from off-site sampling points indicates that the groundwater plume extends across the street and 150 feet beyond into neighboring property. Field observations noted two city underground utility corridors located adjacent to the site's source area that could serve as conduits for spreading the petroleum plume so far downgradient.

Instead of a "small" shallow hydrocarbon plume located on-site or within 25 feet of the source area, the shallow groundwater plume extends 100 feet to the edge of the adjacent street to the east, and 500 feet southeast of the source area. The vertical extent of the plume extends 45 feet below the easternmost dispensing area and 75 feet into the intersection.

Besides the city sewer and water pipelines that act as a transfer system, the groundwater plume intersects a natural gas pipeline, several buried electrical lines, two fiber optic lines and a main cable line for half of the city. The vadose zone soil plume extends 300 feet to the southeast and under two major city roads and a newly built community center. The smear zone extends 150 feet to the southeast and midway into the intersection mimicking the extent of the vertical extent of the deep groundwater plume.

The soil plume does not intersect with the natural gas or cable lines but does intersect with irrigation and electrical lines, and overlays the stormwater pipeline in the parking lot of the community center.

Another factor to adjust in our sample model is the groundwater elevation throughout the plume. During the wet season, the site's groundwater elevation increases to three feet below the surface around the source area and gradually decreases to eight feet at the farthest extent of the plume. During the dry season, the elevation drops to five feet in the source area and 11 feet at the farthest extent.

As shown in this column, the typical Florida conceptual model does not describe our sample site. The source area, plume dimensions and groundwater elevations, among other characteristics, need modifications to accurately describe the site before an effective remediation plan can be designed and reagents selected.

Other factors such as utility placement, the need for access agreements and management of traffic will also influence the selection process. These will be discussed in future columns.

The lesson learned? Once a conceptual model has been developed, you must review the design assumptions against actual site data. Often the site-specific characteristics will change the initial assumptions used to create your model.

Laura Gimpelson, PE, is president of LG Environmental Engineering in Orlando. She can be reached at lg_environmental@bellsouth.net.

Water law forum provides update on current issues

By JERRY WOOD, PE

When it comes to water law development, the eastern states in the U.S. are decades behind the western states, primarily due to long term stressors only recently experienced in the east.

That was the message delivered Dr. Robert Abrams, professor of law at Florida A&M University's College of Law, at the annual Water Law Update in January.

The event, sponsored by the Florida Earth Foundation at the Barry University Law School in Orlando, provided a broad perspective of water law development across the country.

Abrams also touched on the theme of full utilization of available water resources and advanced conservation programs. He urged the rejection of simplistic alternatives in favor of comprehensive ecological and socially responsible solutions.

The status of the numeric nutrient criteria standards for waters of the state was discussed by Daryl Joyner, chief of assessment and restoration support at the Florida Department of Environmental Protection in Tallahassee.

Joyner said that the process of approval for a final NNC standard could take months—even years. Several complexities include the approval by the U.S. Environmental Protection Agency, several threatened lawsuits

UPDATE
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Florida Specifier

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The Florida Specifier welcomes columns, articles and letters to the editor on any subject or issue pertinent to the environmental, regulatory and technical areas the newspaper covers. We reserve the right to edit all submissions for newspaper style and publish submissions on a space-available basis.

Calendar

February

FEB. 2-3—Course: Asbestos: Management Planner, Gainesville, FL. Presented by the University of Florida TREEO Center. Call (352) 392-9570 or visit www.treeco.ufl.edu.

FEB. 3-11—Course: Backflow Prevention Assembly Tester Training and Certification, Venice, FL. Presented by the University of Florida TREEO Center. Call (352) 392-9570 or visit www.treeco.ufl.edu.

FEB. 4—Course: Backflow Prevention Recertification Review, Bradenton, FL. Presented by the University of Florida TREEO Center. Call (352) 392-9570 or visit www.treeco.ufl.edu.

FEB. 6—Course: Backflow Prevention Recertification Review, Lake Buena Vista, FL. Presented by the University of Florida TREEO Center. Call (352) 392-9570 or visit www.treeco.ufl.edu.

FEB. 6-7—Course: Asbestos: Operations & Maintenance (Class III), Gainesville, FL. Presented by the University of Florida TREEO Center. Call (352) 392-9570 or visit www.treeco.ufl.edu.

FEB. 7—Course: Backflow Prevention Recertification Exam, Lake Buena Vista, FL. Presented by the University of Florida TREEO Center. Call (352) 392-9570 or visit www.treeco.ufl.edu.

FEB. 7-8—Course: Emergency Preparedness for Water & Wastewater Utilities, Ft. Myers, FL. Presented by the University of Florida TREEO Center. Call (352) 392-9570 or visit www.treeco.ufl.edu.

FEB. 7-9—Conference: Carbon Management Technology Conference, Orlando, FL. Presented by the American Society of Civil Engineers, Society of Petroleum Engineers, and others. Call (972) 952-9393 or visit www.carbonmgmt.org.

FEB. 8-10—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.treeco.ufl.edu.

FEB. 8—Course: Lead Refresher: Worker, Gainesville, FL. Presented by the University of Florida TREEO Center. Call (352) 392-9570 or visit www.treeco.ufl.edu.

FEB. 9—Course: Water Distribution System Security, Ft. Myers, FL. Presented by the University of Florida TREEO Center. Call (352) 392-9570 or visit www.treeco.ufl.edu.

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FEB. 17-18—Course: Backflow Prevention Assembly Repair and Maintenance Training and Certification, Venice, FL. Presented by the University of Florida TREEO Center. Call (352) 392-9570 or visit www.treeco.ufl.edu.

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

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

FEB. 23-24—Workshop: ADaPT Workshop, Royal Palm Beach, FL. Presented by LDCFL. Call (561) 753-0483 or visit www.ldcfl.com.

FEB. 24—Course: Backflow Prevention Recertification Exam, Venice, FL. Presented by the University of Florida TREEO Center. Call (352) 392-9570 or visit www.treeco.ufl.edu.

FEB. 24—Course: Lead Refresher: Supervisor/Contractor, Gainesville, FL. Presented by the University of Florida TREEO Center. Call (352) 392-9570 or visit www.treeco.ufl.edu.

FEB. 25—Banquet: 2012 Central Florida Engineers Week Banquet, Orlando, FL. Contact Nicole Kolankowsky at kolankowskyNE@cdm.com.

FEB. 25—Course: Backflow Prevention Recertification Exam, Venice, FL. Presented by the University of

Florida TREEO Center. Call (352) 392-9570 or visit www.treeco.ufl.edu.

FEB. 25-MAR. 4—Course: Backflow Prevention Assembly Tester Training and Certification, Jacksonville, FL. Presented by the University of Florida TREEO Center. Call (352) 392-9570 or visit www.treeco.ufl.edu.

FEB. 28-MAR. 2—Course: Water Class C Certification Review, Gainesville, FL. Presented by the University of Florida TREEO Center. Call (352) 392-9570 or visit www.treeco.ufl.edu.

Environmental Industry Summit X

The 10th annual Environmental Industry Summit is set for March 14-16, 2012, at the Hotel Del Coronado near San Diego, CA.

The annual event is presented by Environmental Business International Inc., publisher of the Environmental Business Journal.

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MAR. 6—Course: Asbestos Refresher: Management Planner, Tampa, FL. Presented by the University of Florida TREEO Center. Call (352) 392-9570 or visit www.treeco.ufl.edu.

MAR. 6—Course: Refresher Training Course for Experienced Solid Waste Operators-4 Hours, Daytona Beach, FL. Presented by the University of Florida

MAR. 6-7—Course: Pumping Systems Operation and Maintenance, Gainesville, FL. Presented by the University of Florida TREEO Center. Call (352) 392-9570 or visit www.treeco.ufl.edu.

MAR. 7—Course: U.S. DOT Hazardous Materials/Waste Transportation, Daytona Beach, FL. Presented by the University of Florida TREEO Center. Call (352) 392-9570 or visit www.treeco.ufl.edu.

MAR. 7—Course: 4-Hour Refresher Course for Spotters at Landfills, C&D Sites and Transfer Stations, Daytona Beach, FL. Presented by the University of Florida TREEO Center. Call (352) 392-9570 or visit www.treeco.ufl.edu.

MAR. 7—Course: 8-Hour Training Course for Spotters at Landfills, C&D Sites and Transfer Stations, Daytona Beach, FL. Presented by the University of Florida TREEO Center. Call (352) 392-9570 or visit www.treeco.ufl.edu.

MAR. 7-8—Course: 22nd Annual Cross-Connection Control Conference, Daytona Beach, FL. Presented by the University of Florida TREEO Center. Call (352) 392-9570 or visit www.treeco.ufl.edu.

MAR. 9—Conference: American Water Resources Association, Florida Section Conference, Jupiter, FL. Contact Kristin Bennett at (772) 781-3413 or visit www.awraflorida.com.

MAR. 11-15—Conference: Pittcon Conference and Expo 2012, Orlando, FL. Presented by The Pittsburgh Conference on Analytical Chemistry and Applied Spectroscopy. Call (412) 825-3220 or visit www.pittcon.org.

March

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MAR. 5—Course: 8-Hour OSHA HazWoper Annual, Daytona Beach, FL. Presented by the University of Florida TREEO Center. Call (352) 392-9570 or visit www.treeco.ufl.edu.

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STATE OF BIZ

From Page 1

Environmental protection has grown rapidly to become a major sales-generating, job-creating industry.

Because this is an election year, there won't be much new environmental legislation passed by Congress, said Ferrier. "We won't see much in terms of new policies," he said. "Election years are worse than average. I think it's going to be important for companies to focus on the economic drivers."

He said solid waste and infrastructure work has been fairly busy across the country. But the water and wastewater field has

been underfunded, he added. "There are a lot of needs there."

Florida's economy has been slow making progress as it struggles to break free from the housing slump and financial crisis of recent years. Experts expect improvement this year, but warn that any growth will come at a slow pace.

Some environmental companies have weathered the storm by diversifying their client base. One such firm is Water Resource Associates Inc. in Tampa

The company recently celebrated its 15th anniversary, said Pete Hubbell, principal of WRA. One key to the company's longevity has been its decision to diver-

sify its business. "We have not relied too heavily on either the public or private sectors, and we've strived to have a balance of clients," he said.

He said the company has some very strong commercial clients. "We see that side of the business growing quite a bit, especially relating to water supply," said Hubbell.

"It's not going to get easier to meet water supply demands. People are looking at alternative water supplies, and minimum flows and levels are being set throughout the state. So that means more work for us," he said. "2011 was a good year for us. We had a large contract with the U.S. Army Corps of Engineers and that's kept us very busy."

Eric Brown, vice-president of client services for SWS Environmental Services in Largo, said business appears to be picking up.

"We have seen over the last year a large increase in communications from the environmental and engineering consulting firms," said Brown whose company provides environmental services for private industry and government centered on emergency spill response, disaster response, industrial services, waste management and site remediation.

Brown said that 2010 was "rough and flat" overall and that the company was not getting a lot of business opportunities. There was an increase in business in 2011 and 2012 is shaping up to be a better year, he said.

"We are seeing a lot more activity than we have seen in the past three years," he said. "The money is starting to flow and we hope it will continue throughout the year."

He said business last year was good because the company focused heavily on selling to old customers. Industry-wide, there should be an upturn in business, he believes. "I think the economy is starting to pick up, the banks are releasing money. You have to clean up properties sooner or later. You can't hold out forever."

Veteran Tallahassee-based environmental attorney Bill Preston, who focuses on environmental law, government law and related issues, also sees hopeful signs ahead.

"I'm not sure about the land development field, which seems to be subject to the bubble in the housing market and the backlog that still exists," Preston said.

"But I'm still doing to a fair number of contaminated site cases. People are moving into the state and with them come some of the corporate interests who will be interested in developing sites."

Preston said that changes in management at the Florida Department of Environmental Protection both in Tallahassee and at the regional district level should improve business conditions.

"There's a new layer of senior management staff who want to break loose the logjam of cases in contaminated sites," said Preston.

"The department and Gov. Rick Scott are trying to solve problems," he said. "Right now, I am willing to give them the benefit of the doubt."

Preston believes Scott has given the department a clear mission to help stimulate the economy. "I am sure he's told the department that it should continue to protect the environment. But he's also said let's do what we can to create jobs and get people back to work."

Preston believes Florida will be a good

place to do business in 2012.

"There has been pain extending to every corner, from the consulting engineering firms to the environmental law firms," he said. "But generally speaking, Florida is still a good place to be in the environmental field."

"None of my clients think the environment should be damned. It will face pressures from growth and development, but it is still a beautiful place where people can raise their children and grandchildren."

Others share Preston's view that business conditions are improving. Last year was better for business than 2009 or 2010, said Rob Wallace, PE, president of Environmental Engineering Consultants Inc. in Tampa.

"Early on, 2011 was quite busy, but it did get a little flat in the middle of the year," Wallace said. "However, we finished strong and that was very encouraging to me."

Wallace said site engineering for new development is very slow, but there's more work in industrial compliance. Other areas of work that were busy include wastewater projects, groundwater studies and indoor air quality, Wallace said.

"Things bottomed out for us in 2010, but I am very optimistic about 2012."

Over at Stormwater Solutions Inc. in Cocoa Beach, business has also been stable, said company president Gordon England. "2011 was not as good as the year before but we have been holding steady," England said.

His civil engineering firm specializes in municipal stormwater management.

Bert Gerber, president of Gerber Pumps International Inc. in Longwood, said water treatment work has been increasing. The company specializes in pumping all types of difficult-to-pump fluids and sludges.

"2011 was down from the previous year," Gerber said. "It was not a bad year, but we expect this year to be much better. The municipal sector has been down, but industrial work has increased."

"People are holding on to their money, but we're doing all right. We are working on several different projects right now."

Geoff Beardall, co-owner of Earth Systems Inc. in Jacksonville Beach, said the petroleum cleanup sector is driving growth. "We have seen a 25 percent increase in total revenue in 2011 compared to 2010, mostly driven by petroleum," he said.

Beardall said he attributes that increase to continued strong funding of the state's Inland Protection Trust Fund and the strong leadership of Robert Brown, the new head of the tanks program at DEP.

"There are indications that the funding will remain strong in coming years, which is a good thing," Beardall said.

He said Brown has given lawmakers and the governor an accurate idea of how many underground storage tank sites need to be cleaned up, how long it will take to clean them up and the cost of remediation. "They can't be spending that much money without any discernible results," Beardall said.

He also praised the Florida Petroleum Marketers and Convenience Store Association and other industry groups for convincing lawmakers that spending money on the tanks program creates jobs, reduces groundwater contamination, and relieves

STATE OF BIZ
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DISTRICTS

From Page 1

to adjust to the new economic realities.

"To be sustainable as an organization, we need to achieve maximum efficiency with our operations to free up money for projects," she said. "We are trying to do more with less. We need to be leaner, more efficient and more effective."

To help achieve these goals, the district is in the process of restructuring its organization to reduce costs and achieve greater efficiencies. The agency expects to be finished with its restructuring efforts by Feb. 1.

In the budget being developed for FY 2013, reserves are being used to more than double the funds available for cooperative funding projects. That means more money for environmental restoration programs like SWIM and cost-sharing alternative water resource programs.

Harroun said other district priorities include projects for alternative water resource development, water storage, reclaimed water, water conservation, environmental restoration and stormwater improvements.

The district is coordinating efforts with the St. Johns River and South Florida water management districts to identify and ensure the development of alternative water supplies to meet the growing demands in central Florida, Harroun said.

The same stringent belt-tightening is being practiced at Florida's largest water management district to the south. Gov. Scott recently signed off on the South Florida Water Management District's \$571 million budget, which is a reduction of \$519 million or more than 47 percent from the previous year's spending plan.

The district's biggest cuts are to land acquisition and restoration efforts. Construction of two of the district's largest restoration projects is nearly complete and will require \$113.5 million less in costs in the upcoming fiscal year.

The agency also cut more than \$100 million in salaries and operations by doing away with more than 270 jobs, paring employee pensions and benefits, and grounding flights.

Doug Berstrom, administrative services director with the South Florida district, said the agency's goals for 2012 include replacing, improve and managing the regional water management system by implementing flood control system refurbishment projects.

The district will continue coordinating with the U.S. Army Corps of Engineers on levee inspections and improvements, along with repair of the Herbert Hoover Dike.

The district will also be restoring the northern and southern Everglades by expanding and improving water storage capacity; implementing cost-effective solutions to improve water quality treatment; reducing nutrient loads and achieving water quality standards in the Everglades; completing construction of on-going restoration projects; implementing construction of key new restoration projects; and managing invasive exotic and nuisance vegetation.

South Florida district Executive Director Melissa Meeker said the agency remains committed to Everglades cleanup and water storage as well as water quality projects in Lake Okeechobee, and the St. Lucie and Caloosahatchee watersheds.

Further north, the St. Johns River Water Management District has a busy year ahead. At the Fellsmere Water Management Area, a new 10,000-acre reservoir will treat agricultural discharges prior to entering the St. Johns River water management area.

Another project will divert stormwater runoff from Palm Bay to the C-1 retention area where it will be pumped through the Sawgrass Lake water management area for water quality improvements before it is discharged to the St. Johns.

Officials say this project will benefit the Indian River Lagoon and upper St. Johns River areas by treating stormwater before it reaches downstream waterways.

To meet current and future water use

demands, the district has undertaken and continues work on numerous water supply development and conservation projects, many in conjunction with local governments, utilities and other entities.

Water supply projects include work on Taylor Creek, a major alternative water supply project. The existing Taylor Creek reservoir water supply system will be expanded.

The district will also be monitoring water quality and quantity trends to ensure that appropriate data continues to exist on which to make sound scientific decisions.

District officials say that they will continue prescribed burns, control invasive exotic plants and operate and maintain levees, locks and other structures.

The district is also retooling its permitting programs to help the regulated public save time and money, and to strengthen relations between the district and permit applicants.

Elsewhere, the Suwannee River Water Management District is watching its purse strings closely too, said district Board Chairman Don Quincey Jr. He said a good example of the district's fiscal accountability is measured in its staffing levels.

The district reduced the number of full-time staff for this fiscal year. The agency accomplished that by outsourcing some activities, contracting for technical functions, hiring consultants for temporary projects and employing staff capable of performing multiple tasks.

Over the past year, the district completed its water supply assessment study which pointed out four regions in the northeastern part of the district that are expected to have inadequate groundwater resources over the next 20 years.

Quincey said impacts to groundwater can and are occurring from outside the district's jurisdiction boundaries. For example, White Sulfur Springs and Worthington Springs no longer have sustainable flows.

Other springs throughout the district are exhibiting lower flow and have increasing nitrogen trends.

Quincey said the district must get help from the Florida Department of Environmental Protection and the St. Johns River Water Management District to make sure that resource impacts and future water supply needs are addressed.

The district has embarked on a joint regional supply plan with the St. Johns district that will develop and implement minimum flow and level prevention and recovery strategy when withdrawals in one district contribute to water resource impacts in the other district.

"This agreement is a major landmark lifeline in addressing our future water supply needs and for protecting our rivers, lakes, springs and natural systems," Quincey said. "Losing these resources is not an option. There would be unacceptable impacts on agriculture and tourism that will in turn have negative economic impacts to our state."

Another important partnership is with Georgia. About 55 percent of the Suwannee River Basin is located in the adjacent state to the north.

"Therefore, it is essential that this partnership continues to assure that our water supplies and natural systems are protected," Quincey said.

According to the Georgia water plan, groundwater withdrawals from the Upper Floridan Aquifer system are expected to increase significantly in the future.

The district is home to about 320,000 people. According to the 2010 water supply assessment, the district's population is projected to grow to more than 730,000 by the year 2030.

The district is the smallest of Florida's five water management districts and covers all or part of 15 counties in north central Florida. The agency spans 13 river basins.

The district is currently experiencing water supply problems in the Alapaha, Upper Santa Fe and Upper Suwannee river basins.

To the west, the Northwest Florida Water Management District has a full slate of projects planned for 2012.

The district will complete final engineering and bid construction of the Bay County Wellfield. Bay County currently relies on Deer Point Lake reservoir to meet the majority of public water supply needs. The project will ensure enough potable water supplies are available if a hurricane or other event impacts the existing surface water supply.

The district will also buy 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 areas of Okaloosa County.

District officials will complete initial engineering for interconnection of coastal utilities from Gulf County to Santa Rosa County. This will increase water supply

reliability in coastal panhandle communities, say district officials.

The agency will also provide financial help to add an additional water main across Choctawhatchee Bay connecting the existing inland wellfield to the high demand coastal communities.

The Northwest district will continue working with the regulated community on the Phase II wetland component of the Environmental Resource Permitting program implemented in October 2010.

The rules provide compliance with legislative initiatives to streamline the regulatory process allowing permits to be issued from one agency. It also allows for the submission of a joint application to manage stormwater and wetlands impacts.

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DEP initiates steps to reduce nitrate levels in Santa Fe River Basin

By DAN MILLOTT

The Florida Department of Environmental Protection has put in motion a plan to cut nitrates from the drainage basin that feeds the Santa Fe River.

A 1,400-square-mile area that includes

a large chunk of Alachua County will be impacted by the project. Other areas affected by the plan are in Gilchrist, Columbia, Bradford and Union counties.

In December, DEP asked for comments on the project. John Abendroth, administrator of DEP's Watershed Planning & Coordination Section, said the agency

decided to seek additional comments from area interests, which delayed starting work on the plan.

He estimated the program won't commence until mid-March.

"Additional time was granted because more parties wanted to comment," he said. "But there was little opposition to the plan."

The only objections came from some who felt the agency's plan did not go far enough. The deadline for comments on the plan had been extended until Jan. 13.

Abendroth said nitrates are the chief pollutants in the basin. He said that nitrates pose health risks in drinking water supplies, but also lower the water quality in springs and rivers, and cause algae blooms. Those blooms suck up oxygen needed by fish and other aquatic animals to survive.

The aim of the plan is to cut nitrate levels to 0.35 milligrams per liter. Current levels exceed that by 0.4 to 0.5 milligrams per liter.

According to Abendroth, about 70 percent of the nitrates reaching the Santa Fe basin are the result of fertilizer use and other agricultural activities.

This is the first phase of a long term

plan. The goal of this initial phase is to require agricultural interests to adopt best management practices.

BMPs include more efficient irrigation systems and the use of slow-release fertilizers.

Hugh Thomas, Santa Fe Basin coordinator of the Suwannee River Partnership, a publicly funded program to protect water resources, said a program to reduce nitrates would not pose an undue financial hardship on the agricultural industry.

Thomas, an advocate of cleaner waters, works closely with the agricultural industry.

While the plan would mandate some upgrading of fertilizer and landscape ordinances at the local government level, Alachua County already has those ordinances in place.

Chris Bird, director of Alachua County's Environmental Protection Department, said that the Santa Fe watershed plan is voluntary, unlike other plans in the state.

Abendroth said this plan does not address all sources of nitrates that flow into the Santa Fe, but that future phases will address additional issues and other sources of nitrates in the basin.

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SFWMD extends funding for oyster, seagrass monitoring

By BLANCHE HARDY, PG

The South Florida Water Management District governing board approved resolutions in late 2011 extending monitoring support for water quality improvement and restoration of South Florida natural systems including the Everglades.

Included in the board's actions are funding authorizations for seagrass and oyster monitoring programs executed through the Restoration Coordination and Verification program, RECOVER. The program, sponsored by the U.S. Army Corps of Engineers and the district, was established to organize and apply information in support of the Comprehensive Everglades Restoration Plan.

Both of the monitoring programs are included in the monitoring and assessment plan, MAP, through which the RECOVER program assesses the performance of CERP projects.

Dave Tipple, the corps' branch chief - RECOVER & System-Wide Analysis Branch, Planning and Policy Division, confirmed the importance of the two programs.

"The monitoring and assessment plan is the primary tool by which the Restoration Coordination and Verification program will assess the performance of CERP," he said.

"The continued funding of MAP ... coupled with other monitoring in the South Florida ecosystem, allows CERP to have an integrated, system-wide monitoring and assessment plan used by many participating agencies and tribal governments as a means of tracking and measuring the performance of the CERP and other interactions within the ecosystem."

The governing board's resolutions facilitate the continuance of oyster monitoring in the St. Lucie Estuary, Loxahatchee Estuary and Lake Worth Lagoon for 42 months as well as implementation

of the Fish Habitat Assessment Program for 46 months. Both programs will be executed through cooperative agreements between the district and the Florida Fish and Wildlife Conservation Commission's Fish and Wildlife Research Institute.

Oysters are monitored for their ability to produce indicators reflecting the health of CERP-related estuaries. As such, the results of oyster bed monitoring are an important tool in assessing the success of CERP initiatives.

In addition to facilitating performance measurement, the district noted that the data gained from oyster bed monitoring supports real-time management of CERP waterbodies and will help quantify the future success of the C-44 Reservoir and Stormwater Treatment Area in Martin County.

In July, 2011, the corps' Jacksonville district awarded a \$32,420,192 contract to Phillips & Jordan Inc. to build the C-44 Reservoir and Stormwater Treatment Area, which is part of the Indian River Lagoon-South Everglades restoration project. HDR Inc. is the designer of record through a district contract.

The work is projected to create 40-50 new jobs with an estimated economic impact of 490 jobs during the first year of the contract and 310 jobs during the second. Overall, the project has a seven-year time line.

In addition to approving funding for oyster bed assessment, the governing board extended the monitoring of seagrass habitat. The district identified healthy seagrass cover as central to maintaining and restoring fish populations and water quality, noting one of the goals of CERP is improvement of species diversity and aerial extent of seagrass cover.

The district is funding these programs while operating under an ad valorem budget reduction of \$128 million—over 30 percent less funding than was formerly available through this revenue source.



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NOTES

From Page 3

dust and traffic, and would damage wetlands and disturb wildlife.

The lawsuit asked the court to overturn the commission's decision and claims commissioners denied Troyer Brothers a fair and unbiased hearing.

The suit asks the court to order the issue be sent back to the commission for further consideration. The suit says the mine would benefit the county by creating jobs and providing lime rock necessary for construction projects.

Okaloosa restoration permitted. DEP issued a final order approving a permit to restore the beach on Okaloosa Island. The permit allows Okaloosa County to complete the \$12 million restoration of 2.9 miles of public beach. The project would add about 913,000 cubic yards of sand dredged from the Gulf of Mexico to the beach.

The DEP's decision overturned an administrative law judge's recommendation to deny the county's permit because the sand it proposed using would be too dark and contained too many shells.

The beach restoration project has been in litigation since April 2010 when Okaloosa Island residents David and Rebecca Sherry challenged the county's application for a permit.

In recent months, the Sherrys have been joined in their opposition by other residents and business owners.

Even if the county abandons the project after a future vote, the DEP permit would still be valid for five years.

Hernando landfill ruling. An administrative law judge has ruled that DEP should deny a construction and demolition debris landfill permit for east Hernando County.

The landfill was proposed for a 26-acre parcel north of State Road 50 and just west of Interstate 75, an area ringed by horse farms and riding enthusiasts.

Out of Bounds Inc. applied for the DEP permit in September 2008. In April 2010, DEP officials gave notice that it intended to issue the permit.

Experts representing residents said that chemicals leaching out of decaying construction materials ranging from arsenic to benzene would reach the Floridan Aquifer, potentially contaminating nearby wells.

The DEP changed its mind and gave notice it would deny the permit.

Administrative Law Judge J. Lawrence Johnston issued a ruling in December and rejected the Out of Bounds argument that no liner was required in the landfill.

Johnston also rejected arguments by Out of Bounds that by accepting only clean debris, the potential for contamination was eliminated.

Wind farm plans. A new wind farm may rise near Belle Glade. Wind Capital Group is the company behind the Sugarland Wind project planned for 13,000 acres seven miles east of Belle Glade.

The company submitted its application for the project to the Palm Beach County Commission. The commission could vote on the project as early as March.

Plans call for the wind farm to produce 200 megawatts of power, enough electricity for 55,000-65,000 homes.

It would be completed by late 2013, providing about 250 jobs during construction and 15-20 permanent jobs thereafter.

Plans call for as many as 100 turbines, each roughly the height of a 30-story building to be installed near State Road 880 and Browns Farm Road in the county's Everglades Agricultural Area.

The project still must be approved by the U.S. Army Corps of Engineers. The U.S. Fish and Wildlife Service will also weigh in on the biological studies.

Service recognized. Two scientists at the U.S. Environmental Protection Agency's Gulf Ecology Division Laboratory in Gulf Breeze have received a top agency award.

Rick Greene, acting director of the

division's National Health and Environmental Effects Research Laboratory, and Jim Hagy of the division's Ecosystem Dynamics and Effects Branch received EPA's gold medal for exceptional service.

They were recognized for exemplary efforts to develop numeric nutrient criteria and protect Florida's inland waters from nutrient pollution through a process based on legally and scientifically sound assessments.

Names in the news. Attorney William S. Bilenky joined the Manson Law Group. For the past 12 years, he worked at the Southwest Florida Water Management District, most recently as the district's general counsel.

Kenneth Spillias, a shareholder in Lewis, Longman & Walker's West Palm Beach office has been named president and managing shareholder of the firm, effective March 1. Spillias practices in the areas of local government, land use, and civil litigation and appeals and joins the firm's management team made up of executive committee members Kevin Hennessy, Michelle Diffenderfer, Ed Steinmeyer and Dan Richardson.

Company news. Rose, Sundstrom & Bentley LLP has changed its name. The law firm is now Sundstrom, Friedman & Fumero LLP. SSF has regional offices in

Tallahassee, Lake Mary and Boca Raton, and focuses on environmental, water, governmental, utilities and health care law throughout Florida. In addition to the name change, William Sundstrom and John Fumero were named as co-managing partners of the firm.

Clean Earth Inc. announced the opening of a new location in Moore Haven. Clean Earth of Southern Florida is a Florida Department of Environmental Protection-permitted non-hazardous soil treatment, processing and recycling facil-

ity accepting non-hazardous petroleum contaminated soils from remediation sites.

Using a thermal treatment process, the material treated at this facility can be used as fill material or landfill cover.

CESF will provide turnkey services to transport, treat and recycle contaminated soils derived from various construction sites or spills. Additional services such as soil project management, soil testing, and environmental support services are also available.

Miami-Dade residents, activists sue to reverse county rock mining approval

Staff report

A lawsuit was filed by three Miami-Dade residents backed by environmental groups in an attempt to reverse a Miami-Dade County Commission decision last October approving rock mining activities close to the Everglades National Park.

The suit was filed Dec. 29. Pompano Beach-based environmental attorney Robert Hartsell said the county commission is being sued for approving a development order that is inconsistent with county's master plan. The county had 20 days to respond.

The action was filed on behalf of Andres Fernandez, Angel Santos and Charles Boyd, all area property owners.

The mining operation of Cemex Construction Materials was granted by a 10-3 commission vote. If the project moves ahead, it would create an excavation pit on a parcel owned by developer Masoud Shojae, principal of Shoma Homes.

This is not the first dispute between developers and homeowners/activists over rock mining operations in the area.

Homeowners filed suit over other activities undertaken by rock mining operations citing damage to homes and swimming pools caused by mine blasting.

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liability to property owners and buyers.”
Last year, the budgets of the state’s five water management districts were slashed by state leaders. Those massive cuts have hurt business at Applied Technology and Management, said company vice president Steve Peene.

“We do a lot of environmental restoration and water quality work, and we are seeing major cutbacks in those areas from the districts,” Peene said.

“But we’re seeing some pick up in the Caribbean and South America and we have some work in China and India. Private home-building has been decimated and we need to see that pick up again. That would have a significant effect on our business.”

Business has also been good at Lampl Herbert Consultants Inc. in Tallahassee. The consulting firm handles all kinds of environmental regulatory permitting, and oil and gas regulatory work for exploration and production.

“We have been doing pretty well in the past few years. We’ve been seeing a lot of issues with water resources,” said company Vice President Thomas A. Herbert, PhD, PG.

“I’m optimistic,” Herbert said. “The workers who’ve been let go have a lot of expertise and they are going to be rehired.”

from stakeholders.

Chinese drywall replacement. A Chinese drywall manufacturer has agreed to replace contaminated and odor-emitting drywall installed during the last building boom.

The settlement is a result of a class action lawsuit that represented 5200 plaintiffs in Florida, Louisiana, Alabama and Mississippi against Knauf Plasterboard Tianjim.

Under the terms of the agreement, the gypsum wallboard will be replaced at no cost to homeowners.

Other homeowners who allege that KPT drywall was used in their homes may file claims in the future.

The settlement provides homeowners with three options to remediate buildings contaminated by substandard drywall. They may use a certified contractor approved by the class action steering committee and KPT; use a qualified contractor of their own choosing; or receive a cash payment.

All homes enrolled in the program will be inspected by environmental engineers, who will certify to homeowners that their homes no longer have problem drywall odors and contamination.

by public interest groups and some specific contents of the proposed standard.

One interesting aspect of the DEP-proposed standard is its “all-or-nothing” provision. This provision, known as a “poison pill,” could derail final approval if any changes are proposed by EPA or state legal actions. Such a derailment would place various NPDES permits for discharge to surface waters in jeopardy.

Another highlight of the conference included a review of water supply planning by Anthony Cotter, an assistant Orange County attorney, and Chip Merriam, chief legislative and regulatory compliance officer at Orlando Utilities Commission. Their basic message was that the Central Florida Region is expected to experience a 120-200 million gallon a day shortfall in potable water production by 2025.

Various initiatives, including the Central Florida Water Initiative, have been implemented by various large water utilities to address this water resource issue.

An interesting perspective of the issue was provided by Merriam, who recalled Gov. Napoleon B. Broward “declaring war” on water in the early 1900s. A massive effort to drain the land ensued in an attempt to rid the state of the nuisance water enemy.

Obviously, we are now headed in the opposite direction and the historical perspective is not lost on many of the key developers of future water supply and water use solutions.

Editor’s note: The Florida Earth Foundation is a public-private partnership composed of over 70 partners in industry, education, government and non-profit sectors. Its mission is “to bring people together through education, outreach and facilitation to ensure Florida’s environmental integrity and quality of life.” For more information about FEF, contact Stan Bronson, executive director, at (561) 686-3688.

2002 and 2007.

The suit was filed under the False Claims Act and seeks \$75 million. If the defendants are found guilty, those funds would go to the U.S government.

Prime is seeking 30 percent of the total recovery.

Oliver said his client could get 20 to 30 percent of the recovery with the court determining what Prime would receive. The court would have to determine what value the information from Prime had in the recovery, he said.

The suit says the firms booked a 23 percent profit on their contract with the corps. That amounted to an \$8.9 million profit on \$38.6 million in billings. The suit says company officials told the corps that their profit was just 10 percent.

Prime, while with PBS&J, helped negotiate the \$90 million contract with the government. The 15-year contract included labor costs based on its then-workforce. But once work began, they utilized lower cost employees. The suit says they failed to update the corps or the contract to reflect the change.

The suit also alleges that Prime was wrongfully dismissed from PBS&J after he complained twice to his boss, Robert Paulson, about the inflated labor charges. WS Atkins, plc, a British company, acquired PBS&J in 2011.

Prime, former president of the Florida Engineering Society, joined PBS&J in 1997 as director of their Central-North Florida environmental division.

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