

STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION

In re: ORANGE CREEK
BASIN MANAGEMENT ACTION PLAN

OGC Case No. 14-0367

FINAL ORDER ESTABLISHING THE ORANGE CREEK RIVER
BASIN MANAGEMENT ACTION PLAN

Pursuant to Section 403.067(7), Florida Statutes, this Final Order adopts the attached Basin Management Action Plan ("BMAP") for certain Class III surface waterbodies within the Orange Creek Basin. The adopted BMAP, entitled "Final Basin Management Action Plan for the Implementation of Total Maximum Daily Loads Adopted by the Florida Department of Environmental Protection in the Orange Creek Basin" and dated June 2014, is attached hereto and incorporated herein as Exhibit 1. This adopted BMAP addresses the second phase of water quality restoration plans for the Orange Creek BMAP adopted in May 2008.

The Orange Creek BMAP has been developed as part of the Department's Total Maximum Daily Load ("TMDL") Program, as authorized under the Florida Watershed Restoration Act (Section 403.067, Florida Statutes). Surface waters covered in the Orange Creek BMAP are designated as Class III waters in accordance with Chapter 62-302, Florida Administrative Code ("F.A.C."). Class III waters must have suitable water quality for recreational use and for the

propagation and maintenance of a healthy, well-balanced population of fish and wildlife.

The Orange Creek Basin is located mostly in Alachua County. It also encompasses the north portion of Marion County and the southwestern part of Putnam County. In 2003, and 2006 for Alachua Sink, the Department established TMDLs for waters within the Orange Creek Basin in Rule 62-304.500 F.A.C. Excessive nutrients are the primary pollutants contributing to the impairments. Appendix B in the attached Exhibit 1 identifies the applicable TMDLs.

The Department worked closely with the affected stakeholders, including local and state agencies, in developing the Orange Creek BMAP to achieve the associated TMDLs. Beyond direct work with the affected stakeholders, the Department encouraged public participation to the greatest practicable extent by providing routine updates in Basin Working Group meetings and requests for comment at these meetings on the Orange Creek BMAP. The Department held a noticed public meeting in the basin in October 2013, to discuss the BMAP and receive comments.

The Orange Creek BMAP represents the collaborative effort of stakeholders to identify current and planned management actions to achieve pollutant load reductions required by the TMDLs. The adopted BMAP documents the

management actions that have been, or will be, undertaken by stakeholders to reduce discharge of pollutants in the watershed. The management actions (completed, ongoing, and planned) identified in the BMAP address known sources of pollutants, facilitate investigation of unknown sources, prevent new sources, and address future loads associated with population growth and land use changes in the basin.

The specific pollutant reduction projects and activities required of individual entities are set forth in Chapter 4 through Chapter 9 of the BMAP. All projects and activities in the BMAP must be completed by the assigned entity within five years of the effective date of this Order. Activities that are ongoing in nature (for instance, street sweeping and stormwater pond maintenance) must be initiated within 120 days of the effective date of this Order, and thereafter continued, unless otherwise indicated in the BMAP.

Within 12 months after the effective date of this order, each responsible entity shall establish milestones for completion of all remaining phases of their assigned projects and activities within the required 5 year period, including deadlines for completion of each phase, and submit that information to the Department. Annually thereafter, each responsible entity shall submit to the

Department an updated project spreadsheet showing the current status of each of their projects and activities. The projects and activities, and the associated deadlines to complete those projects and activities, must be consistent with the information contained within the BMAP and the information submitted by the responsible entity and on file with the Department, unless a modification has been approved by the Department. This Final Order and incorporated BMAP are enforceable pursuant to sections 403.067, 403.121, 403.141, and 403.161, Florida Statutes.

THEREFORE, IT IS ORDERED that the attached Exhibit 1 is hereby adopted as the Orange Creek Basin Management Action Plan.

NOTICE OF RIGHTS

The Orange Creek BMAP shall become final unless a timely petition for an administrative proceeding is filed pursuant to the provisions of Sections 120.569 and 120.57 of the Florida Statutes, before the deadline for filing a petition. The procedures for petitioning for a hearing are set forth below.

A person whose substantial interests are affected by the Department's proposed agency action may petition for an administrative proceeding (hearing) under Sections 120.569

and 120.57 of the Florida Statutes. The petition must contain the information set forth below and must be filed (received) in the Department's Office of General Counsel, 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000.

Petitions must be filed within 21 days of publication of the public notice or within 21 days of receipt of this order, whichever occurs first. Under Section 120.60(3), Florida Statutes, however, any person who asked the Department for notice of agency action may file a petition within 21 days of receipt of such notice, regardless of the date of publication. The failure of any person to file a petition within the appropriate time period shall constitute a waiver of that person's right to request an administrative determination (hearing) under Sections 120.569 and 120.57 of the Florida Statutes, or to intervene in this proceeding and participate as a party to it. Any subsequent intervention (in a proceeding initiated by another party) will be only at the discretion of the presiding officer upon the filing of a motion in compliance with Rule 28-106.205, F.A.C.

A petition that disputes the material facts on which the Department's action is based must contain the following information:

(a) The name, addresses, and telephone number of each petitioner; the Department case identification number and the county in which the subject matter or activity is located;

(b) A statement of how and when each petitioner received notice of the Department action;

(c) A statement of how each petitioner's substantial interests are affected by the Department action;

(d) A statement of the material facts disputed by the petitioner, if any;

(e) A statement of facts that the petitioner contends warrant reversal or modification of the Department action;

(f) A statement of which rules or statutes the petitioner contends require reversal or modification of the Department action; and

(g) A statement of the relief sought by the petitioner, stating precisely the action that the petitioner wants the Department to take.

A petition that does not disputes the material facts on which the Department's action is based shall state that no such facts are in dispute and otherwise shall contain the same information as set forth above, as required by Rule 28-106.301, F.A.C.

Because the administrative hearing process is designed to formulate final agency action, the filing of a petition means that the Department's final action may be different from the position taken by it in this order. Persons whose substantial interests will be affected by any such final decision of the Department on the petition have the right to petition to become a party to the proceeding, in accordance with the requirements set forth above.

Mediation is not available for this proceeding.

A party who is adversely affected by this order has the right to seek judicial review under Section 120.68 of the Florida Statutes, by filing a notice of appeal under Rule 9.110 of the Florida Rules of Appellate Procedure with the clerk of the Department in the Office of the General Counsel, Mail Station 35, 3900 Commonwealth Boulevard, Tallahassee, Florida, 32399-3000, and by filing a copy of the notice of appeal accompanied by the applicable filing fees with the appropriate district court of appeal. The notice of appeal must be filed within thirty days after this order is filed with the clerk of the Department.

DONE AND ORDERED this 1st day of July, 2014, in Tallahassee, Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION



Herschel T. Vinyard Jr.
Secretary

FILED ON THIS DATE PURSUANT TO § 120.52,
FLORIDA STATUTES, WITH THE DESIGNATED
DEPARTMENT CLERK, RECEIPT OF WHICH IS
HEREBY ACKNOWLEDGED.



CLERK

7-1-14

DATE