

St. Lucie River and Estuary Basin Management Action Plan (BMAP) Webinar Summary

Wednesday, May 25, 2022

2:00 pm – 3:18 pm

Participants

Silvia Alderman, Akerman
Samuel Amerson, Martin County
Cassandra Armstrong, SFWMD
Christian Avila, SFWMD
Venetia Barnes, City of Fort Pierce
Mark Barton, SFWMD
Terrie Bates, Citizen
Adam Blalock, DEP
Greg Braun, Citizen
Kelly Burton, SFWMD
Courtney Calderone, St. Lucie County
Erin Carroll, Florida Senate
Stacy Cecil, DEP
Melissa Corbett, The Milcor Group
Caryn Crabb, DEP
Amy Eason, City of Port St. Lucie
Bill Eggers, Evans Properties
Yesenia Escribano, FDACS
Kathy Fitzpatrick, Martin County
David Frady, DEP
Gary Franklin, St. Lucie County
Marcy Frick, Tetra Tech
Aubrey Frye, SFWMD
Stanley Ganthier, DEP
Cristina Gauthier, SFWMD
Katie Gawin, Florida House
Joe Gilio, Citizen
Diane Goldberg, Citizen
Rebecca Groover, FOWA
Christopher Guth, Federico & Associates
Kenny Hayman, DEP
Janet Hearn, ATM
Melissa Hill, National Wildlife Federation
Ruth Holmes, Martin County
Luke Hudson, DEP
Dianne Hughes, Martin County
Nenad Iricanin, SFWMD
Jeff Iudicello, SFMD
Megan Jacoby, SFWMD
Christopher Johns, Lewis Longman Walker
Paul Julian, SCCF

Lee Killinger, Florida Crystals
Kathy LaMartina, SFWMD
James Lappert, St. Lucie County
Celeste Lyon, Wood
Jonathan Madden, SFWMD
Susan McNamee, Hydro International
Joshua Mills, SFWMD
Nikki Morgan, DEP
Charles Murphy, Glades Media
Anne Murray, Martin County
Caitlin Newcamp, Audubon
Stacey Ollis, SFWMD
Melanie Parker, SFWMD
Amanda Peck, DEP
Ximena Pernet, RES
Mark Perry, Florida Oceanographic Society
Jesse Pfadenhauer, DEP
Nicolas Pisarello, ATM
Irene Quincey, Pavese Law
Ann Redmond, Brown and Caldwell
Timothy Richards, City of Port St. Lucie
Rex Robinson, USDA
Maria Romero, Lee County
Elizabeth Salewski, SFWMD
Shimelis Setegn, SFWMD
Alycia Shatters, DEP
Charles Shinn, FFBF
Gil Smart, Friends of the Everglades
Edward Smith, DEP
Carlton Spirio, Gresham Smith
Danielle Taylor, SFWMD
Scott Tedford, Martin County
Jennifer Thera, FDACS
Raychel Thomas, Pavese Law
Ansley Tilley, RES
Diana Turner, DEP
Stuart Van Horn, SFWMD
Jose Vega, St. Lucie County
Rachel Vitek, RES
Benita Whalen, Dispersed H2O
Yan Zou, FSU

The full webinar recording and supporting materials are posted to the Florida Department of Environmental Protection (DEP) file transfer protocol (FTP) site at http://publicfiles.dep.state.fl.us/DEAR/BMAP/StLucie/Meetings/2022/05_25_Annual_BMAP_Meeting/.

Questions and Answers

Question on the South Florida Water Management District (SFWMD) presentation: How are the pollutant reductions from the SFWMD projects being accounted for in the BMAP?

Answer from Marcy Frick, Tetra Tech: We are working with the District as they finalize design details for their projects or as the projects get into the ground and there are monitoring data to try to account for any of those water quality benefits for those projects.

Question on the DEP presentation: What is being done for BMAP enforcement?

Answer from Nikki Morgan, DEP: We are in contact with any stakeholders that have allocations and they have quite a bit of time in order to produce projects.

Answer from Diana Turner, DEP: BMAPs are adopted by Secretarial Order so they are enforceable but, as for specific enforcement actions that have taken place, I can get with you offline. I have to go back and look and find them but I can get you more information.

Question on the DEP presentation: What are the best types of projects for addressing phosphorus?

Answer from Marcy Frick, Tetra Tech: As part of the Statewide Annual Report (STAR), there is a lot of supporting information on the best management practices (BMPs) that receive credit and the efficiencies associated with that. That is probably the best source to get information. I know that alum treatment gets a pretty high efficiency, depending on how that is applied, but I would look at the BMP tools we have available on the BMAP website and we can send that link through the chat [<https://floridadep.gov/dear/water-quality-restoration/content/statewide-best-management-practice-bmp-efficiencies>].

Question on the DEP presentation: Are the reductions in total phosphorus (TP) and total nitrogen (TN) based on actual data or are these model reduction amounts?

Answer from Marcy Frick, Tetra Tech: It is a combination. Some of these are based on using the BMAP model and some established efficiencies for BMPs from a lot of studies that have been done across the state that have been published in literature. Some of these projects do have monitoring data so, where we have actual data, we use those, as well, so it is a combination.

Question on the DEP presentation: What preventative pollution measures do you have?

Answer from Marcy Frick, Tetra Tech: That might be answered again by looking at some of the approved best management practices on the BMAP website for different types of measures that would help to reduce nitrogen and phosphorus loading that would be eligible for credit in a BMAP.

Answer from Nikki Morgan, DEP: The online report for the BMAP would have a good list of all the projects that have been considered as preventative pollution measures.

Question on the DEP presentation: How are you ensuring BMPs are being followed?

Answer from Marcy Frick, Tetra Tech: By statute, the nonpoint sources if they are implementing BMPs we are assuming that they are being implemented in a compliant manner. Depending on the type of BMP it could have an associated permit where there would be inspections. There are not the resources

to go out and inspect every single BMP so we do have to use some general information on how those BMPs are functioning to determine reductions.

Question on the DEP presentation: On the priorities, if a stakeholder hasn't met its allocation reduction in the low priority basin (North Fork), should we concentrate somewhere else or are we looking at the cumulative allocations with multiple basins?

Answer from Nikki Morgan, DEP: For the first part, I don't necessarily think that concentrating somewhere else if one basin has a low priority is always the best answer because you still have those allocations as a stakeholder that need to be met.

Answer from Marcy Frick, Tetra Tech: When Nikki was walking through the process, the TRA is really a way to focus where we need reductions but it's not saying if it's low priority that it has met the TMDL targets yet. It just means that it's closer than maybe some other areas. If you have multiple basins and you're trying to prioritize funding, if you want to prioritize them in the areas where you're not seeing the same kind of progress that's fine but just because at the moment it's a low priority basin doesn't mean that we don't want to do anything there.

Question on the DEP presentation: If you are way past the reductions in one basin, does a stakeholder get credit as a whole or per basin?

Answer from Marcy Frick, Tetra Tech: Each stakeholder has a total allocation they need to achieve and we're tracking progress by looking at the estimated reductions for those projects as well as how water quality is responding in the basins. So, you don't get a credit because you don't have an allocation in a specific basin, and each stakeholder has an allocation across all the basins they are located within.

Question on the DEP presentation: The tier 2 stations in the BMAP report, which is most of the stations in the non-tidal area, do not have long-term continuous data (more than 5 years), especially the Ten Mile Creek area. How do you come to the conclusion of trend, please?

Answer from Nikki Morgan, DEP: Some of those do not necessarily have trend data for them. We do try to use the five-year trend whenever we can but it is not necessarily used in all basins. A lot of those do have data through at least through 2018. Within this five-year rolling average, we do have data for most of these basins.

Answer from Marcy Frick, Tetra Tech: The detail for the trend evaluation was part of the 5-Year Review that was completed in 2018. If you want to see some more details about the amount of data for each of those stations that were available then for the trends, you can look back at that report.

Question on the DEP presentation: I have an allocation in multiple basins. If my total for all basins is 10, with Basin A – 4 and Basin B – 6 to equal 10, and say I have met Basin A with 10 and Basin B with 0, does that satisfy meeting allocation?

Answer from Marcy Frick, Tetra Tech: At the moment it does because you have one allocation.

Question on the Florida Department of Agriculture and Consumer Services (FDACS) presentation: How are you tracking conversion of agriculture into major developments? The new major developments will need an allocation (new community development districts [CDDs]).

Answer from Jennifer Thera, FDACS: As the agricultural areas are becoming developed, we remove them from our agricultural land coverage, called the FSAID (Florida Statewide Agricultural Irrigation Demand) that I talked about, so they are then no longer agriculture and we will no longer map them.

Answer from Diana Turner, DEP: For the BMAP, for new developments like CDDs, any new CDDs would get evaluated with our next BMAP update, which will happen by July 1, 2025 like Nikki was talking about. We have some specific criteria for CDDs that they would have to meet to actually receive an allocation but we would do that evaluation as we are updating the BMAP.

Question on the FDACS presentation: How many parcels do you have to visit every two years per Senate Bill (SB) 712?

Answer from Jennifer Thera, FDACS: At first, we had a set number for our first two years that was based on how many were enrolled at the time that the bill passed back in July 2020. It will fluctuate on how many parcels come in and out of production over time. Overall, once they are enrolled, at least every two years we'll have to visit them. If they would like an exact number of parcels, they can contact me and we can get with our field staff.

Question on the FDACS presentation: Does the enrollment of agricultural acres mean that they have a letter of intent but not all the acres are implementing BMPs, correct?

Answer from Jennifer Thera, FDACS: The notice of intent (NOI) expressly states that they are undertaking agricultural BMPs on their enrolled property. Portions of the property for which BMPs don't apply, they're not applicable so those are excluded.

Question on the FDACS presentation: On BMP implementation verification (IV), does the 93 % completed mean that you have visited 93 % of the enrolled sites or acres? Do you "verify" that all BMPs are being implemented?

Answer from Jennifer Thera, FDACS: Yes, the 93 % is of the number of NOIs that we have had an IV visit on. The field staff, when they are visiting them, would make sure that they are implementing all the applicable BMPs.

Question on the DEP presentation: How long does it take on average to get compliance? Are you saying all sugar producers are in compliance?

Answer from David Frady, DEP: As far as how long, that is a really tough one because we got 60 % or 70 % into compliance after the first letter. Some folks are obviously still out of compliance. It boils down to if we can hold of them. Once we get a hold of folks, usually within a week or two we can get them into compliance. That has been our biggest challenge is either getting them knowing we got the letter into their hands or on the phone or via email. Once we can have a conversation with them, either virtually or on the phone or via email, usually within a few weeks we can get them enrolled.

Answer from Jennifer Thera, FDACS: In general, if we do our site visits and somebody is not performing the BMPs correctly, we would give them corrective measures so they can effectively implement their BMPs. Then, if they are not properly implementing them, we can then follow through with remedial measures. And, if they are still out of compliance, we can then refer them to DEP. As far as we know, I would have to get back to you if there's any specific area that we have given corrective measures to. They can contact us and we can help but, for right now, all I know is that we give them time to actually correct what needs to be corrected.

Question on the DEP presentation: If the property is "out of compliance", what are the enforcement measures, fines, etc. and when are they implemented?

Answer from David Frady, DEP: If the property remains out of compliance, Florida Statute allows us to assess a fine up to about \$50,000 and it could be more depending on how long it's been out of

compliance and what the activities are. Obviously, there is some discretion in there if a person with five acres and a cow in the backyard isn't in compliance it wouldn't be appropriate to assess them a \$50,000 fine, so there's some discretion there in the hands of the enforcement attorney. Once we've exhausted all methods to reach them and we know that we're reaching them and they are just not coming into compliance, from there it's a civil litigation matter and we send them a final order and they have a certain amount of time, I think it's 90 days off the top of my head [corrected later in the meeting to 21 days], to pay the fine and come into compliance. If they don't, we could confirm a judge to hold them in contempt.

Question on the FDACS presentation: That leads to my next question. SFWMD is issuing permits with nutrient calculations that only show pre versus post and do not consider the BMAP reductions. These developments are getting approved without knowing they may end up with an allocation.

Answer from Diana Turner, DEP: We want to consider these kinds of things for the BMAP so I do know there are rulemaking efforts going on right now with the stormwater rules, and I can put a link in the chat to the page on the department's site [<https://floridadep.gov/water/water/content/water-resource-management-rules-development#erp-sw>]. We just really encourage everyone to participate in that rulemaking process and send all your comments. I know they're really happy to get lots of feedback.