



OFFICE OF THE TOWN MANAGER

Rafael G. Casals, ICMA-CM, CFM
Town Manager

May 19, 2021

Florida Department of Environmental Protection

Attn: Avril Wood-McGrath
Division of Environmental Assessment and Restoration
2600 Blair Stone Road, MS 6511
Tallahassee, FL, 32399
Avril.wood-McGrath@FLORIDADEP.gov

Office of the General Counsel

Department of Environmental Protection
3900 Commonwealth Boulevard, Mail Station 35
Tallahassee FL 32399-3000
Agency_Clerck@dep.state.fl.us

RE: Florida Department of Environmental Protection Proposed Revisions to Florida's Water Quality Standards under the Triennial Review

Dear Avril Wood-McGrath,

The Town of Cutler Bay (the "Town") write to express concerns and ask clarifying questions regarding the Florida Department of Environmental Protection's (the "Department") proposed changes under the Triennial Review of Florida's Water Quality Standards. All surface water quality standards in Chapter 62-302, Chapter 62-303, Chapter 62-304, and Chapter 62-4, Florida Administrative Code (F.A.C.), are open under the current review and may be revised as part of the Triennial Review.

We are a member of the Project Delivery Team of the Biscayne Bay Southeastern Everglades Ecosystem's (BBSEER) joint Everglades Restoration project and our citizens are active partners in restoration and we have some of the most accessible recreational overlap with the Comprehensive Everglades Restoration Plan (CERP) footprint and do our part to educate the public on the importance of restoration. To that end we are very engaged in helping to improve the health of Biscayne Bay along with Miami-Dade County. The following Resolutions have been adopted by the Town Council, and aim to prioritize our efforts of Water Quality:

- Resolution No. 09-19 - Urging the U.S. Congress and the Florida Legislature to fully fund Biscayne Bay Coastal Wetlands Projects (*adopted March 3, 2009*).
- Resolution No. 16-28 - Urging the United States Army Corps of Engineers, DEP, and the South Florida Water Management District to expedite Phase II of the Biscayne Bay Coastal Wetlands Project (*adopted May 18, 2016*).
- Resolution No. 17-14 - Urging the United States Army Corps of Engineers, DEP, and the South Florida Water Management District to expedite Phase II of the Biscayne Bay Coastal Wetlands Project (*adopted February 15, 2017*).



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- Resolution No. 21-08 - Supports the June 2020 Biscayne Bay Task Force Report and Recommendations (*adopted January 20, 2021*).

Unlike the proposed changes to the Rules themselves, the Department did not provide the 2021 Implementation Document with the required strikethrough to allow identification of the proposed changes until May 7, 2021 upon request at the public meeting by our representative Laura Reynolds. The 2021 Implementation Document in its underlined and strikethrough format was not provided to the general public until May 10, 2021, via the Department's website. The Department requested all comments to the Triennial Review proposals be submitted by May 19, 2021. This deadline has not given us ample time to review and comment on the proposed changes. To that end, we would like to request a sixty (60) day extension of time to be able to review this material and meet with your department to understand the changes and specifically how they would impact the greater Everglades including Biscayne Bay and the wildlife that depend on the ecosystem health and function.

In the event that the Department denies the request for an extension of time, the following are general comments on the 2021 Implementation Document and the rules at issue in the Triennial Review:

Chapter 62-4

- **Revision of Rule 62-4.242, F.A.C., language to address restoration and enhancement projects that occur within or near Outstanding Florida Waters.**

The proposed rule change decreases the level of protection provided to the resource:

The Florida Legislature has designated Biscayne Bay and Card Sound, including Biscayne National Park, as Outstanding Florida Waters. This affords these waters the highest water quality protections in the state. DEP cannot issue a permit for direct discharges to outstanding Florida waters that would lower ambient water quality and may not issue permits for indirect discharges that would significantly degrade a nearby waterbody designated an outstanding Florida Water Body.

Restoration and enhancement should not require a waiver of water quality standards, in fact it is not only high salinity that is injurious to Biscayne Bay it is also the nutrient load. The state of Florida cannot simply waive these protections but rather must work to meet the standards and provide Biscayne Bay with the needed clean water for restoration.

We would like further justification for this proposed change.

Chapter 62-303

- **Revision of the trend assessment for nutrients;**
- **Addition of language to incorporate portions of the document titled "Implementation of Florida's Numeric Nutrient Standards" by reference;**
- **Addition of language to assess the new turbidity criterion for the protection of corals and hardbottom communities; and**
- **Addition of text to address evaluating the progress of restoration activities.**



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62-303.350 Assessments of Numeric Interpretations of Narrative Nutrient Criterion.

- (1) The numeric interpretations of the narrative nutrient criterion in sections 62-302.531 and 62-302.532, F.A.C., and the nutrient impairment thresholds identified in Rules 62-303.351 through 62-303.354, F.A.C., shall be the primary means for assessing whether a water should be assessed further for nutrient impairment. Other information indicating an imbalance in flora or fauna due to nutrient enrichment, such as algal blooms or mats, excessive nuisance macrophyte growth, decrease in the distribution (either in density or areal coverage) of seagrasses or other native submerged aquatic vegetation, adverse changes in algal species composition, and excessive diel oxygen swings, and other scientifically credible and compelling information meeting the requirements of Chapter 62-160, F.A.C., indicating a waterbody is imbalanced shall also be considered for placing waters on the Planning List.
- (2) To be used to determine whether a waterbody should be assessed further for nutrient enrichment, data must meet the requirements of subsections and paragraphs (2), (3), (4)(a), (4)(c)-(e)(e)-(g), (8), (9), (12) and (13) in Rule 62-303.320, F.A.C.;
- (3) To calculate an annual geometric or arithmetic mean for TN, TP, NO3-NO2, or chlorophyll a, there shall be at least four temporally-independent samples per year with at least one sample collected between May 1 and September 30 and at least one sample collected during the other months of the calendar year. To be treated as temporally-independent, samples must be collected at least one week apart.
- (4) To assess nutrient criteria expressed as a long-term average of annual means, annual medians, or annual geometric means for TN, TP, NO3-NO2, or chlorophyll a, the long-term average of annual means, annual medians, or annual geometric means shall be based on data from at least 3 years meeting the minimum data requirements of subsection 62-303.350(3), F.A.C.
- (5) To assess nutrient criteria expressed as a long-term or seven-year average for TN, TP, NO3-NO2, or chlorophyll a, the long term or seven-year average for nutrients shall be based on a minimum of 10 data points over at least 3 years, with at least two temporally independent samples per year, with at least one sample collected between May 1 and September 30 and at least one sample collected during the other months of the calendar year.
- (6) The assessment of nutrient criteria expressed as a salinity or specific conductance dependent equation shall be based on salinity or specific conductance measurements taken at the same station and time as the applicable nutrient concentration samples.
- (7) To assess nitrate-nitrite criteria expressed as monthly averages, the monthly average nitrate-nitrite shall be calculated using a minimum of one sample collected within the month.

We are not aware of any nutrient criteria expressed as a salinity or specific conductance dependent equation. We are kindly requesting specific examples and how the rule will be applied.

If the Water Body is put on the planning list because an imbalance is detected in the flora and fauna such as in the case of Biscayne Bay does that now mean that the underlying narrative standard is replaced and no longer applies to that water body?

62-303.353 Nutrients in Estuaries and Open Coastal Waters.

Estuaries, estuary segments, or open coastal waters shall be included on the Planning List for nutrients if:

- (1) The numeric interpretation of the narrative nutrient criterion established in subsection 62-302.532(1)~~62-302.531(2)~~ or 62-302.532(2), F.A.C., is exceeded for any parameter; or





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- (2) For estuaries without a numeric interpretation of the narrative nutrient criterion, their annual geometric mean chlorophyll a for any year is greater than 11 ug/l;
- (3) Algal mats or blooms are present in sufficient quantities to pose a nuisance or hinder reproduction of a threatened or endangered species, or other information is available, pursuant to rule 62-303.350, F.A.C., indicating an imbalance in flora or fauna due to nutrient enrichment; or
- (4) There is a statistically significant increasing trend in the annual geometric means at the 95 percent confidence level in TN, TP, or chlorophyll a over the ~~assessment~~ planning period using the ~~ea~~ Mann-Kendall's one-sided, upper-tail Trend Ttest for trend ., as described in Nonparametric Statistical Methods by M. Hollander and D. Wolfe (1999 ed.), pages 376 and 724, which were incorporated by reference in subsection 62-303.351(5), F.A.C.; For the assessment of nutrient trends in estuaries and open coastal waters, there shall be at least one station with a minimum of 10 temporally independent samples; or
- (5) For estuaries with nutrient criteria expressed as not to be exceeded in more than 10 percent of the samples, the nutrient data exceed the listing thresholds in subsection 62-303.320(1), F.A.C. Data must meet the requirements of subsections and paragraphs 62-303.320(2), (3), (4)(c)-(4)(e), (8), (9), F.A.C.

We would like further discussion on this section to understand fully how it would apply to Biscayne Bay.

Elimination of the Narrative Criteria in favor of TMDLs

It also appears the department is removing the underlying narrative criteria, that is currently in place to protect flora and fauna.

The narrative criteria have had an undistinguished enforcement history in Florida and elsewhere, including at the federal level. Numeric nutrient criteria and TMDLs were developed in response to the challenges in enforcing the narrative criteria, which states:

In no case shall nutrient concentrations of a body of water be altered so as to cause an imbalance in natural populations of aquatic flora and fauna. Rule 62-302.530 47(b), Florida Administrative Code (F.A.C.).

The narrative criteria, however, can be an effective tool in assessing the health of an aquatic ecosystem where a nutrient pollutant, like phosphorous, is absorbed by the flora and fauna and does not reach the water column until complete absorption occurs eradicating the once healthy benthic flora and fauna if the load is too great. This is especially significant in a waterbody with a TMDL that has few compliance points or compliance points located far from the nearshore discharge. Because of this dynamic, specifically with phosphorous, the narrative criteria can still play a vital role and provide blanket protection for the designated use of the waterbody.

The 2021 Implementation Document appears to ensure that the narrative criteria is expressly limited, going so far as to change the NNC acronym to only refer to numeric nutrient criteria instead of referring to narrative nutrient criteria as was the case in the 2013 Implementation Document. This change in focus is subtly apparent throughout the 2021 Implementation Document. The proposals appear to change the State's policy on the applicability qualitative criteria by its evaluating flora and fauna in favor of quantitative criteria only within the water column itself. We would kindly request further discussion and justification by the Department.



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Loads Replace Concentrations

Similar to the elimination of the narrative criteria, another change that is observed throughout the 2021 Implementation Document is the replacement of concentrations as the nutrient measurement with loading of nutrients. In Section 7.0, Nutrient Criteria in Estuaries, the 2021 Document specifically states that “[Hierarchy] 1 TMDLs supersede the NNC” which are set as concentrations in current Rule 62-302.532, F.A.C. Again, depending on the frequency and locations of compliance points in proximity to the discharge itself, including runoff, reliance on loading can mask the source that is adding the pollutant. A question arises as to how the superseding of specific concentrations by H1 TMDLs interacts with NPDES permit requirements and Section 401 water quality certifications that are predicated upon meeting state water quality standards that are set currently as concentrations. Along those same lines, the U.S. Supreme Court ruled in the County of Maui v. Hawaii Wildlife Fund that discharges to groundwater that reach surface water which are “functionally equivalent of a direct discharge” are subject to NPDES permitting requirements. If water quality standards will now be addressed as loads instead of concentrations, how will the County of Maui’s decision be implemented? Since the 2021 Document does not provide explanation for these issues, future discussions with the Department would be beneficial for the public.

We would welcome a discussion with the Department at your earliest convenience, to further discuss the proposed changes that would impact the health of Biscayne Bay. As you may know we have had fish kills and are facing massive seagrass die offs. We must do everything we can to improve Water Quality for Biscayne Bay. Please contact us at your earliest convenience to set up a conference to discuss our questions and review your justification for the changes herein.

If you should have any questions or concerns, feel free to contact me at (305) 234-4262 or via email at rcasals@cutlerbay-fl.gov.

Sincerely,

Rafael G. Casals, ICMA-CM, CFM
Town Manager

CC: Lourdes Gomez Director, Lourdes.gomez@miamidade.gov
Parrott, Melinda mparrott@sfwmd.gov
Gonzales, Howard Howard.H.Gonzales@usace.army.mil
Laura Reynolds lreynolds@conservationconceptsllc.org
Daryll Joyner daryll.joyner@FloridaDEP.gov
Kaitlyn Sutton kaitlyn.sutton@FloridaDEP.gov
Cecelia Harper harper.cecelia@epa.gov
Alfredo Quintero, Jr. aquintero@cutlerbay-fl.gov

RESOLUTION NO. 09-19

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, URGING THE U.S. CONGRESS AND THE FLORIDA LEGISLATURE TO FULLY FUND BISCAYNE BAY COASTAL WETLANDS PROJECTS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Greater Everglades Ecosystem is a globally imperiled habitat and the primary source of drinking water for the Town of Cutler Bay, Florida, (the "Town"); and

WHEREAS, the Comprehensive Everglades Restoration Project (CERP) is the largest ecosystem restoration effort in the United States; and

WHEREAS, the CERP is intended to restore fresh water sheet flows to Everglades National Park and Biscayne National Park; and

WHEREAS, two projects on the list of 68 identified in CERP, the C-111 spreader canal and the Biscayne Bay Coastal Wetlands rehydration projects, are the only elements of the restoration plan that rehydrate wetlands and restore the estuaries within Biscayne National Park; and

WHEREAS, full funding for all phases of both of these projects are critical to the restoration of Biscayne National Park; and

WHEREAS, these two projects are also critical to Cutler Bay's efforts to adapt to the projected impact of sea level rise that will cause additional saltwater intrusion in areas that are already experiencing significant saltwater migration several miles inland; and

WHEREAS, restoration of freshwater sheet flow feeding into southern Biscayne Bay will help hold back saltwater intrusion and improve the Town's resilience to potential climate impacts; and

WHEREAS, these projects are also both "shovel-ready" and "green," making them consistent with early goals for federal economic stimulus funding,

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AS FOLLOWS:

Section 1. Recitals. The above findings are true and correct and incorporated herein by this reference.

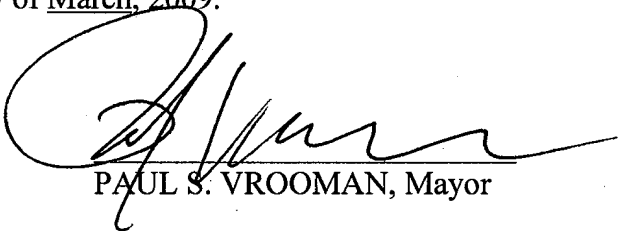
Section 2. Actions urged. The Town Urges the U.S. Congress, the South Florida Water Management District and the Florida Legislature to fully fund Biscayne

Bay Coastal Wetlands projects, in particular the two projects critical to Biscayne Bay and Biscayne National Park: (i) both phases of the C-111 spreader canal and (ii) the Biscayne Bay Coastal Wetland rehydration project. The Town further urges the U.S. Congress and the Florida Legislature to prioritize funding for Everglades restoration projects in any economic stimulus package passed.

Section 3. **Direction.** The Town Council directs the Town Clerk to transmit a certified copy of this resolution to the South Florida Water Management District, the members of the Florida Congressional Delegation, the Governor of Florida, the President of the Florida Senate, the Speaker of the Florida House of Representative, and the Chair and Miami-Dade State Legislative Delegation. The Town Council further directs the Town's state lobbyist to advocate for the passage of the legislation set forth in Sections 1 and 2 above, and directs the Office of Intergovernmental Affairs to include this item in the 2009 Federal and State Legislative Packages.

Section 4. **Effective Date.** This Resolution shall take effect immediately upon adoption.

PASSED and ADOPTED this 18th day of March, 2009.


PAUL S. VROOMAN, Mayor

Attest:


ERIKA GONZALEZ-SANTAMARIA, CMC
Town Clerk



APPROVED AS TO FORM AND
LEGAL SUFFICIENCY FOR THE
SOLE USE OF THE TOWN OF CUTLER BAY:


WEISS SEROTA HELFMAN PASTORIZA
COLE & BONISKE, P.L.
Town Attorney

Moved by: Councilmember Bell
Seconded by: Vice Mayor MacDougall

FINAL VOTE AT ADOPTION:

Mayor Paul S. Vrooman YES

Vice Mayor Edward P. MacDougall YES

Councilmember Peggy R. Bell YES

Councilmember Timothy J. Meerbott YES

Councilmember Ernest N. Sochin YES

RESOLUTION NO. 16-28

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, SUPPORTING THE MIAMI-DADE COUNTY RESOLUTION URGING THE UNITED STATES ARMY CORPS OF ENGINEERS, THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION AND THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT TO EXPEDITE PHASE II OF THE BISCAYNE BAY COASTAL WETLANDS PROJECT; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the beaches throughout Miami-Dade County and the State of Florida are vital to the quality of life for residents and tourists alike; and

WHEREAS, it is important to preserve the quality of sand that is placed on the public beaches that provide a source of recreation and relaxation for both adults and children; and

WHEREAS, on April 19, 2016, the Board of County Commissioners adopted Resolution No. R-325-16 (the "County Resolution"), attached hereto as Exhibit "A"; and

WHEREAS, the Biscayne Bay Coastal Wetlands (BBCW) project is a critical component of the Comprehensive Everglades Restoration Plan (CERP), as authorized by Congress in 2000 which is intended to restore natural coastal wetlands and marine habitats in Biscayne Bay and Biscayne National Park; and

WHEREAS, the BBCW project will provide increased water storage in the wetlands east of the coastal ridge which is expected to protect against saltwater intrusion and thereby increase resiliency against sea level rise in southern Miami-Dade County; and

WHEREAS, the Town Council finds that the adoption of this Resolution is in the best interest and welfare of the residents of the Town.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AS FOLLOWS:

Section 1. Recitals. The above recitals are true and correct and are incorporated herein by this reference.

Section 2. Town Council Support. The Town Council supports the County Resolution No. R-325-16, which urges the United States Army Corps of Engineers, Florida Department of Environmental Protection, and the South Florida Water Management District to expedite the planning of Phase II of the Biscayne Bay Coastal Wetlands Project as outlined in the County Resolution (Exhibit "A").

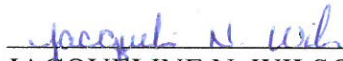
Section 3. Town Clerk Directive. The Town Clerk is hereby directed to transmit a copy of this Resolution to the United States Army Corps of Engineers, the Secretary of the Florida Department of Environmental Protection, the South Florida Water Management District Board Members, and municipalities in Miami-Dade County.

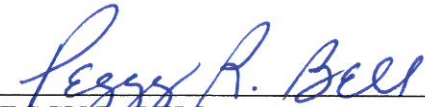
Section 4. Severability. If any clause, sentence, or phrase of this Resolution is for any reason held invalid or unconstitutional by a court of competent jurisdiction, the holding shall not affect the validity of the remaining portions of this Resolution.

Section 5. Effective Date. This Resolution shall be effective immediately upon adoption.

PASSED and ADOPTED this 18th day of May, 2016.

Attest:


JACQUELINE N. WILSON
Town Clerk


PEGGY R. BELL
MAYOR

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY FOR THE
SOLE USE OF THE TOWN OF CUTLER BAY:


WEISS SEROTA HELFMAN
COLE & BIERMAN, P.L.
Town Attorney

Moved by: Council Member Coriat
Second by: Council Member Mixon

FINAL VOTE AT ADOPTION:

Mayor Peggy R. Bell	YES
Vice Mayor Ernest N. Sochin	YES
Council Member Roger Coriat	YES
Council Member Sue Ellen Loyzelle	YES
Council Member Mary Ann Mixon	YES



Exhibit "A"

**Board of County Commissioners
Resolution R-325-16**

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 11(A)(10)
4-19-16

RESOLUTION NO. R-325-16

RESOLUTION URGING THE U.S. ARMY CORPS OF ENGINEERS, THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION AND THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT TO EXPEDITE PHASE II OF THE BISCAYNE BAY COASTAL WETLANDS PROJECT SO THAT PLANNING FOR PHASE II MAY COMMENCE AS SOON AS POSSIBLE AND TO TAKE ALL NECESSARY ACTIONS TO COMPLETE PHASE I OF THE BISCAYNE BAY COASTAL WETLANDS PROJECT

WHEREAS, Miami-Dade County is the only county in the nation that is home to two national parks, Biscayne National Park and Everglades National Park; and

WHEREAS, the health of Biscayne Bay and the Everglades is intrinsically linked to the economic well-being of Miami-Dade County through nature-based tourism and commercial and recreational fishing; and

WHEREAS, restoration of the greater Everglades' ecosystem is important for continued clean water supply, environmental and public health, and the economic viability of Miami-Dade County; and

WHEREAS, the Biscayne Bay Coastal Wetlands (BBCW) project, a critical component of the Comprehensive Everglades Restoration Plan (CERP), as authorized by Congress in 2000, is intended to restore natural coastal wetlands habitat by redistributing freshwater flow through more natural "sheet flows," and reconnecting coastal wetlands and marine habitats in Biscayne Bay and Biscayne National Park; and

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WHEREAS, the BBCW project is the only CERP project that is dedicated to restoring Biscayne Bay and Biscayne National Park, both of which are vital to the ecological and economic health of Miami-Dade County; and

WHEREAS, the BBCW project will provide increased water storage in the wetlands east of the coastal ridge, which is expected to protect against saltwater intrusion and thereby increase resiliency against sea level rise in southern Miami-Dade County; and

WHEREAS, both Phase I and Phase II of the BBCW project must be completed in order to achieve the full project benefits as envisioned in CERP; and

WHEREAS, although there is a plan in place for the completion of Phase I of the BBCW project, the planning for Phase II of the BBCW project is not scheduled to begin until 2021, and actual construction of Phase II would occur even later in time; and

WHEREAS, Phase II of the BBCW project is intended to provide water storage and rehydrate significant wetland areas between the Princeton and Mowry Canals as well as the Model Lands wetland area, which contains more than 20,000 acres of important wetlands that connect the Everglades to Biscayne Bay and Card Sound; and

WHEREAS, in addition, Phase I of the BBCW project has not been completed, and therefore the potential benefits of that portion of the BBCW project have not yet been fully realized; and

WHEREAS, Miami-Dade County is deeply invested and committed to seeing the BBCW project completed, and in order to do in a timely manner, Phase II of the BBCW project must move forward in advance of the current schedule; and

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WHEREAS, to this end, Miami-Dade County has continued to contribute substantial resources towards the goals of CERP and the BBCW project, including land acquisition, technical data, and staffing resources to those project delivery teams; and

WHEREAS, in order to expedite Phase II of the BBCW project, the South Florida Water Management District, as the local sponsor for this project, would need to ask the U.S. Army Corps of Engineers to include, in its budget for fiscal year 2017-2018, the 50 percent federal share of funding for the planning of Phase II of the BBCW project, and such a request by the South Florida Water Management District may need to be made as early as mid-May 2016 in order to meet budgetary deadlines; and

WHEREAS, as such, this Board wishes to request that the U.S. Army Corps of Engineers include the above-mentioned funding in its budget for fiscal year 2017-2018; and

WHEREAS, this Board also wishes to request that: (1) the Florida Department of Environmental Protection and the South Florida Water Management District move forward with planning for Phase II of the BBCW project on an expedited schedule, and take all necessary steps to do so, including the allocation of up to \$3 million dollars, or equivalent in-kind services, as approved and required by the U.S. Army Corps of Engineers, for such planning efforts; and (2) the U.S. Army Corps, Florida Department of Environmental Protection, and the South Florida Water Management District take all necessary steps to complete Phase I of the BBCW project,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board hereby:

Section 1. Urges the U.S Army Corps of Engineers, the Florida Department of Environmental Protection and the South Florida Water Management District to take all steps

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necessary to expedite the planning of Phase II of the BBCW project, so that such planning occurs as soon as possible, and in any event, sooner than the current schedule of 2021, including but not limited to:

- (a) Urging the South Florida Water Management District, as local sponsor of the BBCW project, to ask the U.S. Army Corps of Engineers to include, in its budget for fiscal year 2017-2018, the 50 percent federal share of funding for the planning of Phase II of the BBCW project.
- (b) Urging the U.S. Army Corps of Engineers to include such funding for the planning of Phase II of the BBCW project in its budget for fiscal year 2017-2018, and
- (c) Urging the South Florida Water Management District to allocate up to \$3 million dollars, or equivalent in-kind services, as approved and required by the U.S. Army Corps of Engineers for the planning of Phase II of the BBCW project.

Section 2. Urges the U.S Army Corps of Engineers, the Florida Department of Environmental Protection and the South Florida Water Management District to take all steps necessary to complete Phase I of the BBCW project.

Section 3. Directs the Clerk of the Board to transmit certified copies of this resolution to the Members of the Florida Congressional Delegation; the Assistant Secretary of the Army for Civil Works, the Governor, the Chair and Members of the Miami-Dade State Legislative Delegation, the Secretary of the Department of Environmental Protection, and the Governing Board and Executive Director of the South Florida Water Management District.

Section 4. Directs the County's state and federal lobbyists to advocate for administrative action that would accomplish the goals set forth herein and as described in Section 1 above, and authorizes and directs the Office of Intergovernmental Affairs to include this item

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in the 2017 State Legislative Package and the 2016 and 2017 Federal Legislative Packages when they are presented to the Board.

The Prime Sponsor of the foregoing resolution is Commissioner Daniella Levine Cava. It was offered by Commissioner **Daniella Levine Cava**, who moved its adoption. The motion was seconded by Commissioner **Barbara J. Jordan** and upon being put to a vote, the vote was as follows:

Jean Monestime, Chairman	aye		
Esteban L. Bovo, Jr., Vice Chairman	aye		
Bruno A. Barreiro	aye	Daniella Levine Cava	aye
Jose "Pepe" Diaz	absent	Audrey M. Edmonson	aye
Sally A. Heyman	absent	Barbara J. Jordan	aye
Dennis C. Moss	aye	Rebeca Sosa	aye
Sen. Javier D. Souto	aye	Xavier L. Suarez	absent
Juan C. Zapata	aye		

The Chairperson thereupon declared the resolution duly passed and adopted this 19th day of April, 2016. This resolution shall become effective upon the earlier of (1) 10 days after the date of its adoption unless vetoed by the County Mayor, and if vetoed, shall become effective only upon an override by this Board, or (2) approval by the County Mayor of this Resolution and the filing of this approval with the Clerk of the Board.



MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By: Christopher Agrippa
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

Abbie Schwaderer Raurell

RESOLUTION NO. 17-14

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, URGING THE UNITED STATES ARMY CORPS OF ENGINEERS, THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION AND THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT TO EXPEDITE PHASE II OF THE BISCAYNE BAY COASTAL WETLANDS PROJECT; PROVIDING FOR TRANSMITTAL; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town Council of the Town of Cutler Bay (the "Town") strives to provide the highest quality of life for residents and tourists alike; and

WHEREAS, the preservation of shorelines is of public interest in that it protects the adjacent upland coastal developments from storm damage; provides recreational benefits; supports additional tourism and increase in revenues; and maintains the nesting habits of natural species; and

WHEREAS, the Biscayne Bay Coastal Wetlands Project (the "Project") is a critical component of the Comprehensive Everglades Restoration Project (CERP), as authorized by Congress in 2000, which is intended to restore natural coastal wetlands and marine habitats in Biscayne Bay and Biscayne National Park; and

WHEREAS, the CERP will improve South Florida's ecosystem by restoring water flows that have changed tremendously over the past century and store as much as possible of the 1.7 billion gallons of fresh water a day which is currently being released into the Atlantic Ocean and Gulf of Mexico; and

WHEREAS, the restoration of freshwater sheet flow feeding into southern Biscayne Bay will help hold back saltwater intrusion and further the Town's Climate Change Element initiative to promote environmental responsibility at the local level; and

WHEREAS, the Project is also critical to the Town's efforts to adapt to the projected climate impacts of sea level rise that will cause additional saltwater intrusion in areas that are already experiencing significant saltwater migration several miles inland; and

WHEREAS, the Project will enhance ecological health by helping to reestablish productive nearshore habitat, including nursery habitat for shrimp, shellfish and fish while improving recreational and educational opportunities in Biscayne Bay and adjacent wetlands; and

WHEREAS, the Project is also “shovel-ready” and “green,” making them consistent with early goals for federal economic stimulus funding; and

WHEREAS, on April 19, 2016, the Miami-Dade County Board of County Commissioners adopted Resolution No. R-325-16 (“County”), expediting the planning of Phase II of the Biscayne Bay Coastal Wetlands Project; and

WHEREAS, on January 10, 2017, the Village of Key Biscayne adopted Resolution No. 2017-1, supporting the County’s Resolution; and

WHEREAS, the Town finds that this Resolution will promote the health, safety and welfare of the Town and South Florida wetlands.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AS FOLLOWS:

Section 1. Recitals. The above findings are true and correct and incorporated herein by this reference.

Section 2. Urging. The Town Council hereby urges the United States Army Corps of Engineers, Florida Department of Environmental Protection, and the South Florida Water Management District to expedite the planning of Phase II of the Biscayne Bay Coastal Wetlands Project.

Section 3. Transmittal. The Town Council directs the Town Clerk to transmit a certified copy of this Resolution to the United States Army Corps of Engineers, the Secretary of the Florida Department of Environmental Protection, the South Florida Water Management District Board Members, and municipalities in Miami-Dade County.

Section 4. Effective Date. This Resolution shall take effect immediately upon adoption.

PASSED and ADOPTED this 15th day of February, 2017.



PEGGY R. BELL
Mayor

Attest:



DEBRA E. EASTMAN, MMC
Interim Town Clerk

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY FOR THE
SOLE USE OF THE TOWN OF CUTLER BAY:

A handwritten signature in blue ink, appearing to read 'MSH', is written over a horizontal line.

WEISS SEROTA HELFMAN
COLE & BIERMAN, P.L.
Town Attorney

Moved By: Council Member Coriat
Seconded By: Council Member Mixon

FINAL VOTE AT ADOPTION:

Mayor Peggy R. Bell	YES
Vice Mayor Sue Ellen Loyzelle	YES
Council Member Mary Ann Mixon	YES
Council Member Michael P. Callahan	YES
Council Member Roger Coriat	YES

RESOLUTION NO. 21-08

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, SUPPORTING THE JUNE 2020 BISCAYNE BAY TASK FORCE REPORT AND RECOMMENDATIONS; PROVIDING FOR AUTHORIZATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Cutler Bay (the “Town”), a coastal community located adjacent to the Biscayne Bay Aquatic Preserves, is diligent in its efforts to preserve the environment, including our ocean, waterways, wetlands, and land in between; and

WHEREAS, as a leader in the State of Florida (the “State”) for promoting environmental stewardship, the Town has adopted various resolutions in efforts to protect the natural environment of the planet and of this community, and conserve natural resources by minimizing its impact on said environment and resources; and

WHEREAS, the water quality of Biscayne Bay, the Atlantic Ocean, and area water channels is critical to the health of the environment, the strength of the economy (including the tourism and recreation sectors), and the health, safety, and welfare of the residents of the Town and Miami-Dade County (the “County”); and

WHEREAS, Biscayne Bay has been suffering from detrimental amounts of pollution; and

WHEREAS, there have been unprecedented fish kills, increases in phosphorus and nitrogen levels, rises in water temperature, algae blooms, toxic salinity levels, and low levels of oxygen in Biscayne Bay; and

WHEREAS, this harm to Biscayne Bay was caused in part by fertilizer runoff as well as septic tank spills; and

WHEREAS, on May 20, 2020, the Town Council adopted Resolution No. 20-23, which urged the County to implement minimum standards applicable to the incorporated and unincorporated areas of the County for the proper use and application of fertilizers by adopting a Florida-Friendly Fertilizer Ordinance; and

WHEREAS, regulating fertilizer runoff through fertilizer ordinances would help manage the pollution by including provisions that ban fertilizer application during summer rainy season, requiring mandatory setbacks from water bodies, and requiring training for landscaping professionals; and

WHEREAS, on July 15, 2020, the Town Council adopted Ordinance 20-06, which revised the standards in Chapter 14, “Environmental Protection,” of the Town Code of Ordinances by creating, among other things, Article III, “Fertilizer Use,” to address environmental concerns and ensure sustainability and resiliency for the Town’s residents and future generations; and

WHEREAS, on October 22, 2020, a letter of guidance regarding the protection of Biscayne Bay was produced by the Friends of Biscayne Bay, in which it referenced the detrimental amounts of pollution (caused in part by fertilizer runoff as well as septic tank spills) that have produced unprecedented fish kills, increases in phosphorus and nitrogen levels, rises in water temperature, algae blooms, toxic salinity levels, and low levels of oxygen in the water in Biscayne Bay; and

WHEREAS, the County Board of County Commissioners (BCC) adopted Resolution No. R-165-19, which established the Biscayne Bay Task Force (the “Task Force”); and

WHEREAS, the Task Force’s purpose was to develop recommendations and an action plan identifying problem areas and prioritizing projects for Biscayne Bay, and to present them in a report to the BCC; and

WHEREAS, the report was presented to the BCC in October 2020 and includes 62 recommendations under seven policy themes: water quality, governance, infrastructure, watershed habitat restoration and natural infrastructure, marine debris, education and outreach, and funding; and

WHEREAS, the problems facing Biscayne Bay are serious and complex: most will require financial investments and a unified and collaborative approach to restoration and recovery; and

WHEREAS, the process of restoring and recovering Biscayne Bay’s resources and continuing to work to ensure the Bay is visually and physically accessible for all people is in service of environmental justice, and, in doing so, is in service to the people and natural resources of the County; and

WHEREAS, the Town Council finds that the adoption of this Resolution is in the best interest and welfare of the residents of the Town.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AS FOLLOWS:

Section 1. Recitals. The above recitals are true and correct and are incorporated herein by this reference.

Section 2. Support. The Town Council supports the June 2020 Biscayne Bay Task Force Report and Recommendations.

Section 3. Authorization. The Town Manager is hereby authorized, on behalf of the Town, to actively participate in any Task Force and work closely with the County’s Chief Bay Officer in order to provide further input from the Town.

Section 4. Effective Date. This Resolution shall be effective immediately upon adoption.

PASSED and ADOPTED this 20th day of January, 2021.



TIM MEERBOTT
Mayor

Attest:



DEBRA E. EASTMAN, MMC
Town Clerk



APPROVED AS TO FORM AND
LEGAL SUFFICIENCY FOR THE
SOLE USE OF THE TOWN OF CUTLER BAY:



WEISS SEROTA HELFMAN
COLE & BIERMAN, P.L.
Town Attorney

Moved By: Council Member Duncan
Seconded By: Council Member Coriat

FINAL VOTE AT ADOPTION:

Mayor Tim Meerbott	YES
Vice Mayor Michael P. Callahan	YES
Council Member Robert "BJ" Duncan	YES
Council Member Suzy Lord	YES
Council Member Roger Coriat	YES