

TAC Members,

I would like to present a case study on how our current Florida stormwater rules are not working. I hope this might provide a specific example that demonstrates current stormwater rules are neither enforced nor effective.

I live in a gated community in SW Florida named Pelican Landing, which was originally designed and constructed by WCI starting in the early 1990s (ERP Permit# 36-01620-S). The original design of the stormwater infrastructure was focused on managing volumes of water not the quality of water. Our property, which is adjacent to Spring Creek and Estero Bay, occupies over 2,000 acres with 91 wet retention structures, 3,450 homes, and 2 golf clubs. There are other developments along Estero Bay and its tributaries which exhibit the similar conditions.

Both Spring Creek and Estero Bay are on the FDEP list of Verified Impaired Waterways, Spring Creek for Fecal Indicator Bacteria, Copper, and Nutrients (Total Nitrogen), and Estero Bay for Nutrients (Total Nitrogen). Estero Bay and its tributaries are all Outstanding Florida Waterways. Estero Bay is the State's first Aquatic Preserve. Needless to say, these are important waterbodies for recreation, biodiversity, and wildlife habitat.

My community operates under an NPDES/MS4 permit (FLS000035), which is in cycle 4 and expires in June 2022. This permit covers several nearby communities, CDDs, municipalities and Lee County. Our portion of the MS4 permit is managed by two CDDs, Bayside and Bay Creek Improvement Districts. Annual NPDES reports maintain that the water quality of discharges into surrounding waterbodies meet State requirements. MS4 Permit holders that discharge into impaired waterbodies or OFWs are required to document pollutant levels at major outfall points. We do not do that. Instead, we use a convenient location on Spring Creek (48-10GR) that is tested monthly by Lee County, but is not near a major outfall point and may have no correlation to our actual discharges. We sacrifice actual data for convenience and cost.

Our community has several outfall ponds that discharge stormwater either into Spring Creek or Estero Bay. Once each calendar year in August/September, our two CDDs fund professional nutrient testing of seven outfall ponds. For the past 4 years, these ponds have tested above the FDEP WQ Class III Threshold for Estero Bay. In fact, TN levels of these seven ponds average over 3x this threshold.

The response from SFWMD has been that older communities are grandfathered in and cannot be expected to fund improvements to meet current standards. The FDEP response has been that our community's NPDES report is a "Model Report" and demonstrates that all legal requirements are being met. While there may be legal arguments about what is required, clearly our community is responsible for some level of contribution to the impairment of these waterways. Yet, all parties claim there are no issues.

The reason this is important is that in the ten years from 2007 to 2018, Estero Bay nutrient levels (TN) have increased over 300%. In this same period, the annual average water temperature has increased 5 degrees F and turbidity levels have increased. This has had a negative effect on wildlife habitat as water quality has degraded and sea grass areas have decreased. In addition, Estero Bay has become a feeding trough for red tide blooms that move into the coastal areas.

Citizens often complain about what others are either doing or not doing, but the fact is that our own communities are part of the problem. Nearby communities are also finding very high levels of nutrients which are being discharged.

As long as developers and MS4 permit holders are allowed to skate by water quality rules with little or no enforcement or penalties, they will continue to add to our water quality problems. The SFWMD's "presumption of compliance" provides cover for these damaging discharges. While the ERP requirement for 50% additional stormwater treatment volume for developments discharging into impaired waterways or

January 21, 2021

OFWs sounds effective, there are NO documented examples where this requirement forces permit holders to achieve a "Net Improvement" or meet the 95% pollutant removal requirement.

I have some questions I would like you to consider as part of your rulemaking process:

- Why do we allow ERPs to be approved that have no requirement to meet actual water quality standards?
- Why are MS4 permit holders allowed to report inappropriate or erroneous results and not be held accountable?
- Why are older developments completely exonerated from meeting modern water quality standards?
- Why are there no regulations on the use of reclaimed water, which in our case is testing very high in nutrients?

I hope that this TAC has the willpower to address these issues and make recommendations that will hold parties accountable. I would be glad to discuss this case study with any of you at your convenience.

Thank you for your commitment and work,

Ed Shinouskis
23650 Via Veneto Blvd, #901
Estero, FL 34134
edshinousk@gmail.com
cell: (239) 877-6847

Attachments:

Pelican Landing Water Quality Test Results and Sites.pdf

2020 NPDES Report for BSBC CDD.pdf (cycle4)