

WALK-ON ACC

Lee County Board Of County Commissioners  
Agenda Item Summary

Blue Sheet No. 20070155

**1. ACTION REQUESTED/PURPOSE:** Endorse the attached resolution that supports the enactment of the proposed Legislation, also attached. The draft legislation extends to the Caloosahatchee River and St Lucie River the same degree of protection and budgetary standing currently provided to Lake Okeechobee by the Lake Okeechobee Protection Act.

**2. FUNDING SOURCE:** None

**3. WHAT ACTION ACCOMPLISHES:** Enactment of the Legislation provides direction to SFWMD and FDEP to pursue corrective measures for water quality for the Caloosahatchee River and St Lucie River, and improved management of discharges from Lake Okeechobee to both.

**4. MANAGEMENT RECOMMENDATION:** Approve the attached Resolution.

<b>5. Departmental Category:</b> <u>WO #1</u>		<b>6. Meeting Date:</b> <u>1-30-07</u>
<b>7. Agenda:</b>	<b>8. Requirement/Purpose: (specify)</b>	<b>9. Request Initiated:</b>
<input type="checkbox"/> Consent	<input type="checkbox"/> Statute	Commissioner <u>Tammara Hall</u>
<input checked="" type="checkbox"/> Administrative	<input type="checkbox"/> Ordinance	Department <u>District 4</u>
<input type="checkbox"/> Appeals	<input type="checkbox"/> Admin. Code	Division _____
<input type="checkbox"/> Public	<input type="checkbox"/> Other	By: <u>Tammara Hall</u>
<input checked="" type="checkbox"/> Walk-On		Commissioner, Dist 4

**10. Background:**

Last year Commissioner Hall and Lee County staff prepared a bill that was passed by the Florida Legislature to authorize the formation of the Caloosahatchee and St. Lucie River Study Commission. A group was appointed by the State comprised of 17 various stakeholders including two county commissioners (one from Lee and one from Martin) and other stakeholders representing agriculture, environmental advocacy groups, business and tourism met last year through January of 2007 and is advocating the attached legislation. The legislation is an amendment to the Lake Okeechobee Protection Act. This legislation does not disturb existing provisions of the Lake Okeechobee Protection Act instead it creates a separate subsection under the existing Lake Okeechobee Protection Act targeted at the protection of the Caloosahatchee and St. Lucie Rivers/Estuaries. At the Study Commissions last meeting held on January 18, 2007 there was unanimous support for the attached legislation. Currently this legislation is being championed by Representative Trudi Williams and Senator Burt Saunders. Commissioner Hall served on the Commission and presents to the Lee County Board of County Commissions the attached resolution and drafted Legislation for your consideration.

**11. Review for Scheduling:**

Department Director	Purchasing or Contracts	Human Resources	Other	County Attorney	Budget Services				County Manager/P.W. Director
<u>[Signature]</u>	NA	NA	NA	<u>[Signature]</u>	Analyst	Risk	Grants	Mgr.	<u>[Signature]</u>
					<u>1/26/07</u>		<u>1/24/07</u>	<u>1/26/07</u>	

**12. Commission Action:**

- Approved
- Deferred
- Denied
- Other

Rec'd by CoAtty

Date: 26/07

Time: 9:05AM

Forwarded to: Budge

1/26/07 9:30am

**A RESOLUTION OF THE LEE COUNTY BOARD OF COUNTY COMMISSIONERS IN  
SUPPORT OF LEGISLATION FOR THE PROTECTION OF LAKE OKEECHOBEE  
AND ESTUARY PROTECTION.**

**WHEREAS**, the Lee County Board of County Commissioners is committed to the protection and restoration of its water resources, including the Caloosahatchee River and Estuary; and

**WHEREAS**, the Lee County Board of County Commissioners is concerned over the health of its water resources; and

**WHEREAS**, the frequent and destructive practice of releases of high volumes of nutrient-laden water into the coastal estuarine systems has caused deleterious effects on estuarine ecosystem; and

**WHEREAS**, high Lake water levels have also resulted in substantial discharges to the St. Lucie Estuary and Caloosahatchee River such that concern exists regarding the health of these waterbodies; and

**WHEREAS**, the health of the Caloosahatchee Estuary, including its native plant and animal life, has declined in recent years; and

**WHEREAS**, the public health, welfare and safety of coastal communities has been called into question due to algal blooms associated with high-volume Lake discharges; and

**WHEREAS**, Florida Department of Environmental Protection created and the South Florida Water Management funded the Caloosahatchee/St. Lucie Rivers Corridor Advisory Committee ("the Committee"); and

**WHEREAS**, the Committee has held its required minimum of five (5) public hearings after August 1, 2006 for the purpose of receiving public comments and information reviewing the operation and management of Lake Okeechobee and the associated discharges from the Lake for the purpose of formulating specific recommendations; and

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**COPY**

**WHEREAS**, the Committee's recommendations were to focus on the "implementation of projects and strategies to mitigate the present effects of high discharges from Lake Okeechobee" and the Committee was to "prepare report of recommendations for implementation by the Legislature and the Governor that will mitigate ecological effects and stabilize the effect of high discharges from Lake Okeechobee by March 1, 2007"; and

**WHEREAS**, the Committee has finalized its recommendations for its report to the Governor and Legislature; and

**WHEREAS**, those recommendations include legislation that forms the basis for a program modeled after the Section 373.4595, F.S. "The Lake Okeechobee Protection Act" ("LOPA") focusing on protections for the Caloosahatchee and St. Lucie Estuaries; and

**WHEREAS**, the goal of the legislation is to establish a statutory framework for prioritized and coordinated research plans, monitoring programs, restoration projects to reverse/eliminate the effects of Lake Okeechobee discharges and other adverse impacts, as well as identification of a funding mechanism to implement the overall Estuary Protection Program; and

**WHEREAS**, the key elements of the Estuary Protection Program include: a "Protection Plan" establishing pollutant load reductions; identifying construction projects and land acquisition priorities; a pollutant control program ("BMPs"); estuarine research and water quality/habitat monitoring requirements; expedited development of total maximum daily loads ("TMDL's") for the Estuaries; watershed based planning and regulatory initiatives; establishing implementation and funding priorities; annual SFWMD/DEP reporting to the Legislature and Governor; and

**WHEAREAS**, the adoption of this legislation will provide the desired direction to the implementing state agencies and agencies of the state to achieve an effective program for alleviating and ending the distressing conditions of the St. Lucie and Caloosahatchee Rivers and their estuaries; and

**NOW THEREFORE, BE IT RESOLVED BY THE LEE COUNTY BOARD OF COUNTY COMMISSIONERS:**

**Section 1.** The Lee County Board of County Commissioners requests the Lee County Legislative Delegation support the recommendation of the Caloosahatchee/St. Lucie Rivers Corridor Advisory Committee for legislation to protect the Caloosahatchee and St. Lucie Estuaries; and

**Section 2.** The Lee County Board of County Commissioners requests the Lee County Legislative Delegation support a dedicated funding source to implement the Estuary Protection Program; and

**Section 3.** The Lee County Board of County Commission will forward copies of this resolution to the Governor, the President of the Florida Senate, the Speaker of the Florida House, and the Lee County Legislative Delegation, as well as the Chairs of the sixteen (16) counties of South Florida.

**Section 4.** The Lee County Board of County Commissioners hereby encourages member counties of the Nine-County Coalition to adopt similar Resolutions; and

**Section 5.** This Resolution shall take effect immediately upon adoption.

**PASSED and ADOPTED** this 30th day of January, 2007.

ATTEST: Clerk of the Board

**LEE COUNTY BOARD OF COUNTY COMMISSIONERS**

By: Tricia L. Lewis  
Deputy Clerk

By: [Signature]  
Chair

Approved as to form:

By: [Signature]

County Attorney



1                                   A bill to be entitled  
 2           An act relating to the Lake Okeechobee Protection Program;  
 3           amending s. 373.4595, F.S.; expanding the program to  
 4           include protection of the Caloosahatchee and St. Lucie  
 5           Rivers and their estuaries; revising legislative findings  
 6           and intent; providing definitions; providing for the  
 7           Caloosahatchee and St. Lucie River Estuary Protection  
 8           Program, including an Estuary Protection Plan, Estuary  
 9           Construction Project, Estuary Watershed Pollutant Control  
 10          Program, and Estuary Research, Water Quality, and Habitat  
 11          Monitoring Program; providing for Estuary Protection Plan  
 12          implementation and evaluation; providing for estuary  
 13          protection permits; revising requirements relating to the  
 14          annual progress report of the South Florida Water  
 15          Management District; amending s. 373.036, F.S.; conforming  
 16          a cross-reference to changes made by the act; providing an  
 17          effective date.

18  
 19   Be It Enacted by the Legislature of the State of Florida:

20  
 21           Section 1.   Section 373.4595, Florida Statutes, is amended  
 22   to read:

23           373.4595   Lake Okeechobee and Caloosahatchee and St. Lucie  
 24   River and Estuary Protection Program.--

25           (1)   FINDINGS AND INTENT.--

26           (a)   The Legislature finds that Lake Okeechobee is one of  
 27   the most important water resources of the state, providing many  
 28   functions benefiting the public interest, including

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29 agricultural, public, and environmental water supply; flood  
 30 control; fishing; navigation and recreation; and habitat to  
 31 endangered and threatened species and other flora and fauna.

32 (b) The Legislature finds that the Caloosahatchee and St.  
 33 Lucie Rivers and their estuaries provide significant economic  
 34 value and natural habitat and biodiversity and are critical  
 35 water resources of the state.

36 (c) The Legislature finds that the volume, timing, and  
 37 water quality of discharges to the estuaries of the  
 38 Caloosahatchee and St. Lucie Rivers are the primary causes of  
 39 adverse impacts and that excess flows affect seagrasses,  
 40 oysters, and other living resources, including fisheries, in  
 41 both systems.

42 (d)-(b) The Legislature finds that land uses in the Lake  
 43 Okeechobee watershed and the construction of the Central and  
 44 Southern Florida Project have resulted in adverse changes to the  
 45 hydrology and water quality of Lake Okeechobee and the  
 46 Caloosahatchee and St. Lucie Rivers and their estuaries. These  
 47 hydrology and water quality changes have resulted in algal  
 48 blooms and other adverse impacts to water quality both in Lake  
 49 Okeechobee and in downstream receiving waters.

50 (e)-(e) The Legislature finds that improvement to the  
 51 hydrology and water quality of Lake Okeechobee and the  
 52 Caloosahatchee and St. Lucie Rivers and their estuaries is  
 53 essential to the protection of the Everglades.

54 (f)-(d) The Legislature also finds that it is imperative  
 55 for the state, local governments, and agricultural and  
 56 environmental communities to commit to restoring and protecting

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57 Lake Okeechobee and downstream receiving waters, and that a  
 58 watershed-based approach to address these issues must be  
 59 developed and implemented immediately.

60 (g)~~(e)~~ The Legislature finds that phosphorus loads from  
 61 the Lake Okeechobee watershed have contributed to excessive  
 62 phosphorus levels in Lake Okeechobee and downstream receiving  
 63 waters and that a reduction in levels of phosphorus will benefit  
 64 the ecology of these systems. The excessive levels of phosphorus  
 65 have also resulted in an accumulation of phosphorus in the  
 66 sediments of Lake Okeechobee. If not removed, internal  
 67 phosphorus loads from the sediments are expected to delay  
 68 responses of the lake to external phosphorus reductions.

69 (h)~~(f)~~ The Legislature finds that the Lake Okeechobee  
 70 phosphorus loads set forth in the South Florida Water Management  
 71 District's Technical Publication 81-2 represent an appropriate  
 72 basis for the initial phase of phosphorus load reductions to  
 73 Lake Okeechobee and that subsequent phases of phosphorus load  
 74 reductions shall be determined by the total maximum daily loads  
 75 established in accordance with s. 403.067.

76 (i)~~(g)~~ The Legislature finds that this section, in  
 77 conjunction with s. 403.067, provides a reasonable means of  
 78 achieving and maintaining compliance with state water quality  
 79 standards.

80 (j)~~(h)~~ The Legislature finds that the implementation of  
 81 the programs contained in this section is for the benefit of the  
 82 public health, safety, and welfare and is in the public  
 83 interest.

84 (k)~~(i)~~ The Legislature finds that sufficient research has

85 | been conducted and sufficient plans developed to immediately  
 86 | initiate ~~the first phase of~~ a program to address the hydrology  
 87 | and water quality problems in Lake Okeechobee and the  
 88 | Caloosahatchee and St. Lucie Rivers and their estuaries  
 89 | ~~downstream receiving waters.~~

90 |       (l) The Legislature finds that the tidal Caloosahatchee  
 91 | and St. Lucie Rivers and their estuaries are affected by the  
 92 | quality of waters discharged from Lake Okeechobee and the  
 93 | estuaries' respective watersheds.

94 |       (m) The Legislature finds that an Estuary Protection  
 95 | Program must be developed to identify the adverse hydrologic and  
 96 | water quality impacts within, and upstream of, the  
 97 | Caloosahatchee and St. Lucie Rivers and their estuaries and that  
 98 | solutions to address those impacts be developed and funded.

99 |       (n)~~(j)~~ The Legislature finds that in order to achieve the  
 100 | goals and objectives of this section and to effectively  
 101 | implement the Lake Okeechobee Watershed Phosphorus Control  
 102 | Program pursuant to paragraph (3)(c), the state must  
 103 | expeditiously implement the Lake Okeechobee Protection Plan  
 104 | developed pursuant to paragraph (3)(a).

105 |       (o)~~(k)~~ The Legislature finds that a continuing source of  
 106 | funding is needed to effectively implement a phosphorus control  
 107 | program that initially targets the most significant sources  
 108 | contributing to phosphorus loads within the watershed and  
 109 | continues to address other sources as needed to achieve the  
 110 | phased phosphorus load reductions required under this section.

111 |       (p)~~(l)~~ It is the intent of the Legislature to achieve and  
 112 | maintain compliance with water quality standards in Lake



113 Okeechobee and downstream receiving waters through a phased,  
 114 comprehensive, and innovative protection program to reduce both  
 115 internal and external phosphorus loads to Lake Okeechobee  
 116 through immediate actions to achieve the phosphorus load  
 117 reductions set forth in Technical Publication 81-2 and long-term  
 118 solutions based upon the total maximum daily loads established  
 119 in accordance with s. 403.067. This program shall be watershed-  
 120 based, shall provide for consideration of all potential  
 121 phosphorus sources, and shall include research and monitoring,  
 122 development and implementation of best management practices,  
 123 refinement of existing regulations, and structural and  
 124 nonstructural projects, including public works.

125 (q)~~(m)~~ It is the intent of the Legislature that this  
 126 section ~~the Lake Okeechobee Protection Program~~ be developed and  
 127 implemented in coordination with and, to the greatest extent  
 128 practicable, through the implementation of Restudy project  
 129 components and other federal programs in order to maximize  
 130 opportunities for the most efficient and timely expenditures of  
 131 public funds.

132 (r)~~(n)~~ It is the intent of the Legislature that the  
 133 coordinating agencies encourage and support the development of  
 134 creative public-private partnerships and programs, including  
 135 opportunities for pollutant trading and credits, to facilitate  
 136 or further the restoration of Lake Okeechobee and the  
 137 Caloosahatchee and St. Lucie Rivers and their estuaries,  
 138 consistent with s. 403.067.

139 (2) DEFINITIONS.--As used in this section:

140 (a) "Best management practice" means a practice or

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141 combination of practices determined by the coordinating  
 142 agencies, based on research, field-testing, and expert review,  
 143 to be the most effective and practicable on-location means,  
 144 including economic and technological considerations, for  
 145 improving water quality in agricultural and urban discharges.  
 146 Best management practices for agricultural discharges shall  
 147 reflect a balance between water quality improvements and  
 148 agricultural productivity.

149 (b) "Coordinating agencies" means the Department of  
 150 Agriculture and Consumer Services, the Department of  
 151 Environmental Protection, and the South Florida Water Management  
 152 District.

153 (c) "Corps of Engineers" means the United States Army  
 154 Corps of Engineers.

155 (d) "Department" means the Department of Environmental  
 156 Protection.

157 (e) "District" means the South Florida Water Management  
 158 District.

159 (f) "District's WOD program" means the program implemented  
 160 pursuant to rules adopted as authorized by this section and ss.  
 161 373.016, 373.044, 373.085, 373.086, 373.109, 373.113, 373.118,  
 162 373.451, and 373.453, entitled "Works of the District Basin."

163 (g) "Estuary" or "estuaries" means the St. Lucie River and  
 164 its tributaries and estuary or the Caloosahatchee River and its  
 165 tributaries and estuary or both rivers and their tributaries and  
 166 estuaries.

167 (h) ~~(g)~~ "Lake Okeechobee Construction Project" means the  
 168 construction project developed pursuant to paragraph (3) (b).

169        (i) ~~(h)~~ "Lake Okeechobee Protection Plan" means the plan  
 170 developed pursuant to this section and ss. 373.451-373.459.

171        (j) ~~(i)~~ "Lake Okeechobee watershed" means Lake Okeechobee  
 172 and the area surrounding and tributary to Lake Okeechobee,  
 173 composed of the surrounding hydrologic basins, as defined by the  
 174 Lake Okeechobee Protection Plan dated January 1, 2004.

175        (k) ~~(j)~~ "Lake Okeechobee Watershed Phosphorus Control  
 176 Program" means the program developed pursuant to paragraph  
 177 (3) (c).

178        (l) "Pollutants" means pollution as defined in s. 403.031.

179        (m) ~~(k)~~ "Project component" means any structural or  
 180 operational change, resulting from the Restudy, to the Central  
 181 and Southern Florida Project as it existed and was operated as  
 182 of January 1, 1999.

183        (n) ~~(l)~~ "Restudy" means the Comprehensive Review Study of  
 184 the Central and Southern Florida Project, for which federal  
 185 participation was authorized by the Federal Water Resources  
 186 Development Acts of 1992 and 1996 together with related  
 187 Congressional resolutions and for which participation by the  
 188 South Florida Water Management District is authorized by s.  
 189 373.1501. The term includes all actions undertaken pursuant to  
 190 the aforementioned authorizations which will result in  
 191 recommendations for modifications or additions to the Central  
 192 and Southern Florida Project.

193        (o) ~~(m)~~ "Total maximum daily load" means the sum of the  
 194 individual wasteload allocations for point sources and the load  
 195 allocations for nonpoint sources and natural background. Prior  
 196 to determining individual wasteload allocations and load

197 allocations, the maximum amount of a pollutant that a water body  
198 or water segment can assimilate from all sources without  
199 exceeding water quality standards must first be calculated.

200 (3) LAKE OKEECHOBEE PROTECTION PROGRAM.--A protection  
201 program for Lake Okeechobee that achieves phosphorus load  
202 reductions for Lake Okeechobee shall be immediately implemented  
203 as specified in this subsection. The program shall address the  
204 reduction of phosphorus loading to the lake from both internal  
205 and external sources. Phosphorus load reductions shall be  
206 achieved through a phased program of implementation. Initial  
207 implementation actions shall be technology-based, based upon a  
208 consideration of both the availability of appropriate technology  
209 and the cost of such technology, and shall include phosphorus  
210 reduction measures at both the source and the regional level.  
211 The initial phase of phosphorus load reductions shall be based  
212 upon the district's Technical Publication 81-2 and the  
213 district's WOD program, with subsequent phases of phosphorus  
214 load reductions based upon the total maximum daily loads  
215 established in accordance with s. 403.067. In the development  
216 and administration of the Lake Okeechobee Protection Program,  
217 the coordinating agencies shall maximize opportunities provided  
218 by federal cost-sharing programs and opportunities for  
219 partnerships with the private sector.

220 (a) Lake Okeechobee Protection Plan.--The district, in  
221 cooperation with the other coordinating agencies, shall complete  
222 a Lake Okeechobee Protection Plan in accordance with this  
223 section and ss. 373.451-373.459. The plan shall contain an  
224 implementation schedule for subsequent phases of phosphorus load

225 reduction consistent with the total maximum daily loads  
 226 established in accordance with s. 403.067. The plan shall  
 227 consider and build upon a review and analysis of the following:

228 1. The performance of projects constructed during Phase I  
 229 of the Lake Okeechobee Construction Project, pursuant to  
 230 paragraph (b).

231 2. Relevant information resulting from the Lake Okeechobee  
 232 Watershed Phosphorus Control Program, pursuant to paragraph (c).

233 3. Relevant information resulting from the Lake Okeechobee  
 234 Research and Water Quality Monitoring Program, pursuant to  
 235 paragraph (d).

236 4. Relevant information resulting from the Lake Okeechobee  
 237 Exotic Species Control Program, pursuant to paragraph (e).

238 5. Relevant information resulting from the Lake Okeechobee  
 239 Internal Phosphorus Management Program, pursuant to paragraph  
 240 (f).

241 (b) Lake Okeechobee Construction Project.--To improve the  
 242 hydrology and water quality of Lake Okeechobee and downstream  
 243 receiving waters, the district shall design and construct the  
 244 Lake Okeechobee Construction Project.

245 1. Phase I.--Phase I of the Lake Okeechobee Construction  
 246 Project shall consist of a series of project features consistent  
 247 with the recommendations of the South Florida Ecosystem  
 248 Restoration Working Group's Lake Okeechobee Action Plan.  
 249 Priority basins for such projects include S-191, S-154, and  
 250 Pools D and E in the Lower Kissimmee River. In order to obtain  
 251 phosphorus load reductions to Lake Okeechobee as soon as  
 252 possible, the following actions shall be implemented:

253           a. The district shall serve as a full partner with the  
 254 Corps of Engineers in the design and construction of the Grassy  
 255 Island Ranch and New Palm Dairy stormwater treatment facilities  
 256 as components of the Lake Okeechobee Water Retention/Phosphorus  
 257 Removal Critical Project. The Corps of Engineers shall have the  
 258 lead in design and construction of these facilities. Should  
 259 delays be encountered in the implementation of either of these  
 260 facilities, the district shall notify the department and  
 261 recommend corrective actions.

262           b. The district shall obtain permits and complete  
 263 construction of two of the isolated wetland restoration projects  
 264 that are part of the Lake Okeechobee Water Retention/Phosphorus  
 265 Removal Critical Project. The additional isolated wetland  
 266 projects included in this critical project shall further reduce  
 267 phosphorus loading to Lake Okeechobee.

268           c. The district shall work with the Corps of Engineers to  
 269 expedite initiation of the design process for the Taylor  
 270 Creek/Nubbins Slough Reservoir Assisted Stormwater Treatment  
 271 Area, a project component of the Restudy. The district shall  
 272 propose to the Corps of Engineers that the district take the  
 273 lead in the design and construction of the Reservoir Assisted  
 274 Stormwater Treatment Area and receive credit towards the local  
 275 share of the total cost of the Restudy.

276           2. Phase II.--The district, in cooperation with the other  
 277 coordinating agencies and the Corps of Engineers, shall develop  
 278 an implementation plan for Phase II of the Lake Okeechobee  
 279 Construction Project. Phase II shall include construction of  
 280 additional facilities in the priority basins identified in

281 subparagraph (b)1., as well as facilities for other basins in  
 282 the Lake Okeechobee watershed. The implementation plan shall:

283       a. Identify Lake Okeechobee Construction Project  
 284 facilities to be constructed to achieve a design objective of 40  
 285 parts per billion (ppb) for phosphorus measured as a long-term  
 286 flow weighted average concentration, unless an allocation has  
 287 been established pursuant to s. 403.067 for the Lake Okeechobee  
 288 total maximum daily load.

289       b. Identify the size and location of all such Lake  
 290 Okeechobee Construction Project facilities.

291       c. Provide a construction schedule for all such Lake  
 292 Okeechobee Construction Project facilities, including the  
 293 sequencing and specific timeframe for construction of each Lake  
 294 Okeechobee Construction Project facility.

295       d. Provide a land acquisition schedule for lands necessary  
 296 to achieve the construction schedule.

297       e. Provide a detailed schedule of costs associated with  
 298 the construction schedule.

299       f. Identify, to the maximum extent practicable, impacts on  
 300 wetlands and state-listed species expected to be associated with  
 301 construction of such facilities, including potential  
 302 alternatives to minimize and mitigate such impacts, as  
 303 appropriate.

304       3. Evaluation.--By January 1, 2004, and every 3 years  
 305 thereafter, the district, in cooperation with the coordinating  
 306 agencies, shall conduct an evaluation of any further phosphorus  
 307 load reductions necessary to achieve compliance with the Lake  
 308 Okeechobee total maximum daily load established pursuant to s.

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309 403.067. Additionally, the district shall identify modifications  
 310 to facilities of the Lake Okeechobee Construction Project as  
 311 appropriate if the design objective of 40 parts per billion  
 312 (ppb) or the allocation established pursuant to s. 403.067 for  
 313 the Lake Okeechobee total maximum daily load established  
 314 pursuant to s. 403.067 is not being met. The evaluation shall be  
 315 included in the applicable annual progress report submitted  
 316 pursuant to paragraph (h).

317 4. Coordination and review.--To ensure the timely  
 318 implementation of the Lake Okeechobee Construction Project, the  
 319 design of project facilities shall be coordinated with the  
 320 department and other interested parties to the maximum extent  
 321 practicable. Lake Okeechobee Construction Project facilities  
 322 shall be reviewed and commented upon by the department prior to  
 323 the execution of a construction contract by the district for  
 324 that facility.

325 (c) Lake Okeechobee Watershed Phosphorus Control  
 326 Program.--The Lake Okeechobee Watershed Phosphorus Control  
 327 Program is designed to be a multifaceted approach to reducing  
 328 phosphorus loads by improving the management of phosphorus  
 329 sources within the Lake Okeechobee watershed through continued  
 330 implementation of existing regulations and best management  
 331 practices, development and implementation of improved best  
 332 management practices, improvement and restoration of the  
 333 hydrologic function of natural and managed systems, and  
 334 utilization of alternative technologies for nutrient reduction.  
 335 The coordinating agencies shall facilitate the application of  
 336 federal programs that offer opportunities for water quality



337 treatment, including preservation, restoration, or creation of  
 338 wetlands on agricultural lands.

339 1. Agricultural nonpoint source best management practices,  
 340 developed in accordance with s. 403.067 and designed to achieve  
 341 the objectives of the Lake Okeechobee Protection Program, shall  
 342 be implemented on an expedited basis. The coordinating agencies  
 343 shall develop an interagency agreement pursuant to ss. 373.046  
 344 and 373.406(5) that assures the development of best management  
 345 practices that complement existing regulatory programs and  
 346 specifies how those best management practices are implemented  
 347 and verified. The interagency agreement shall address measures  
 348 to be taken by the coordinating agencies during any best  
 349 management practice reevaluation performed pursuant to sub-  
 350 subparagraph d. The department shall use best professional  
 351 judgment in making the initial determination of best management  
 352 practice effectiveness.

353 a. As provided in s. 403.067(7)(c), the Department of  
 354 Agriculture and Consumer Services, in consultation with the  
 355 department, the district, and affected parties, shall initiate  
 356 rule development for interim measures, best management  
 357 practices, conservation plans, nutrient management plans, or  
 358 other measures necessary for Lake Okeechobee phosphorus load  
 359 reduction. The rule shall include thresholds for requiring  
 360 conservation and nutrient management plans and criteria for the  
 361 contents of such plans. Development of agricultural nonpoint  
 362 source best management practices shall initially focus on those  
 363 priority basins listed in subparagraph (b)1. The Department of  
 364 Agriculture and Consumer Services, in consultation with the

365 department, the district, and affected parties, shall conduct an  
 366 ongoing program for improvement of existing and development of  
 367 new interim measures or best management practices for the  
 368 purpose of adoption of such practices by rule.

369 b. Where agricultural nonpoint source best management  
 370 practices or interim measures have been adopted by rule of the  
 371 Department of Agriculture and Consumer Services, the owner or  
 372 operator of an agricultural nonpoint source addressed by such  
 373 rule shall either implement interim measures or best management  
 374 practices or demonstrate compliance with the district's WOD  
 375 program by conducting monitoring prescribed by the department or  
 376 the district. Owners or operators of agricultural nonpoint  
 377 sources who implement interim measures or best management  
 378 practices adopted by rule of the Department of Agriculture and  
 379 Consumer Services shall be subject to the provisions of s.  
 380 403.067(7). The Department of Agriculture and Consumer Services,  
 381 in cooperation with the department and the district, shall  
 382 provide technical and financial assistance for implementation of  
 383 agricultural best management practices, subject to the  
 384 availability of funds.

385 c. The district or department shall conduct monitoring at  
 386 representative sites to verify the effectiveness of agricultural  
 387 nonpoint source best management practices.

388 d. Where water quality problems are detected for  
 389 agricultural nonpoint sources despite the appropriate  
 390 implementation of adopted best management practices, the  
 391 Department of Agriculture and Consumer Services, in consultation  
 392 with the other coordinating agencies and affected parties, shall

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393 institute a reevaluation of the best management practices and  
 394 make appropriate changes to the rule adopting best management  
 395 practices.

396 2. Nonagricultural nonpoint source best management  
 397 practices, developed in accordance with s. 403.067 and designed  
 398 to achieve the objectives of the Lake Okeechobee Protection  
 399 Program, shall be implemented on an expedited basis. The  
 400 department and the district shall develop an interagency  
 401 agreement pursuant to ss. 373.046 and 373.406(5) that assures  
 402 the development of best management practices that complement  
 403 existing regulatory programs and specifies how those best  
 404 management practices are implemented and verified. The  
 405 interagency agreement shall address measures to be taken by the  
 406 department and the district during any best management practice  
 407 reevaluation performed pursuant to sub-subparagraph d.

408 a. The department and the district are directed to work  
 409 with the University of Florida's Institute of Food and  
 410 Agricultural Sciences to develop appropriate nutrient  
 411 application rates for all nonagricultural soil amendments in the  
 412 watershed. As provided in s. 403.067(7)(c), the department, in  
 413 consultation with the district and affected parties, shall  
 414 develop interim measures, best management practices, or other  
 415 measures necessary for Lake Okeechobee phosphorus load  
 416 reduction. Development of nonagricultural nonpoint source best  
 417 management practices shall initially focus on those priority  
 418 basins listed in subparagraph (b)1. The department, the  
 419 district, and affected parties shall conduct an ongoing program  
 420 for improvement of existing and development of new interim

421 measures or best management practices. The district shall adopt  
 422 technology-based standards under the district's WOD program for  
 423 nonagricultural nonpoint sources of phosphorus.

424       b. Where nonagricultural nonpoint source best management  
 425 practices or interim measures have been developed by the  
 426 department and adopted by the district, the owner or operator of  
 427 a nonagricultural nonpoint source shall implement interim  
 428 measures or best management practices and be subject to the  
 429 provisions of s. 403.067(7). The department and district shall  
 430 provide technical and financial assistance for implementation of  
 431 nonagricultural nonpoint source best management practices,  
 432 subject to the availability of funds.

433       c. The district or the department shall conduct monitoring  
 434 at representative sites to verify the effectiveness of  
 435 nonagricultural nonpoint source best management practices.

436       d. Where water quality problems are detected for  
 437 nonagricultural nonpoint sources despite the appropriate  
 438 implementation of adopted best management practices, the  
 439 department and the district shall institute a reevaluation of  
 440 the best management practices.

441       3. The provisions of subparagraphs 1. and 2. shall not  
 442 preclude the department or the district from requiring  
 443 compliance with water quality standards or with current best  
 444 management practices requirements set forth in any applicable  
 445 regulatory program authorized by law for the purpose of  
 446 protecting water quality. Additionally, subparagraphs 1. and 2.  
 447 are applicable only to the extent that they do not conflict with  
 448 any rules promulgated by the department that are necessary to

449 maintain a federally delegated or approved program.

450         4. Projects which reduce the phosphorus load originating  
451 from domestic wastewater systems within the Lake Okeechobee  
452 watershed shall be given funding priority in the department's  
453 revolving loan program under s. 403.1835. The department shall  
454 coordinate and provide assistance to those local governments  
455 seeking financial assistance for such priority projects.

456         5. Projects that make use of private lands, or lands held  
457 in trust for Indian tribes, to reduce nutrient loadings or  
458 concentrations within a basin by one or more of the following  
459 methods: restoring the natural hydrology of the basin, restoring  
460 wildlife habitat or impacted wetlands, reducing peak flows after  
461 storm events, increasing aquifer recharge, or protecting range  
462 and timberland from conversion to development, are eligible for  
463 grants available under this section from the coordinating  
464 agencies. For projects of otherwise equal priority, special  
465 funding priority will be given to those projects that make best  
466 use of the methods outlined above that involve public-private  
467 partnerships or that obtain federal match money. Preference  
468 ranking above the special funding priority will be given to  
469 projects located in a rural area of critical economic concern  
470 designated by the Governor. Grant applications may be submitted  
471 by any person or tribal entity, and eligible projects may  
472 include, but are not limited to, the purchase of conservation  
473 and flowage easements, hydrologic restoration of wetlands,  
474 creating treatment wetlands, development of a management plan  
475 for natural resources, and financial support to implement a  
476 management plan.

477           6.a. The department shall require all entities disposing  
 478 of domestic wastewater residuals within the Lake Okeechobee  
 479 watershed and the remaining areas of Okeechobee, Glades, and  
 480 Hendry Counties to develop and submit to the department an  
 481 agricultural use plan that limits applications based upon  
 482 phosphorus loading. By July 1, 2005, phosphorus concentrations  
 483 originating from these application sites shall not exceed the  
 484 limits established in the district's WOD program.

485           b. Private and government-owned utilities within Monroe,  
 486 Dade, Broward, Palm Beach, Martin, St. Lucie, Indian River,  
 487 Okeechobee, Highlands, Hendry, and Glades Counties that dispose  
 488 of wastewater residual sludge from utility operations and septic  
 489 removal by land spreading in the Lake Okeechobee watershed may  
 490 use a line item on local sewer rates to cover wastewater  
 491 residual treatment and disposal if such disposal and treatment  
 492 is done by approved alternative treatment methodology at a  
 493 facility located within the areas designated by the Governor as  
 494 rural areas of critical economic concern pursuant to s.  
 495 288.0656. This additional line item is an environmental  
 496 protection disposal fee above the present sewer rate and shall  
 497 not be considered a part of the present sewer rate to customers,  
 498 notwithstanding provisions to the contrary in chapter 367. The  
 499 fee shall be established by the county commission or its  
 500 designated assignee in the county in which the alternative  
 501 method treatment facility is located. The fee shall be  
 502 calculated to be no higher than that necessary to recover the  
 503 facility's prudent cost of providing the service. Upon request  
 504 by an affected county commission, the Florida Public Service

505 Commission will provide assistance in establishing the fee.  
 506 Further, for utilities and utility authorities that use the  
 507 additional line item environmental protection disposal fee, such  
 508 fee shall not be considered a rate increase under the rules of  
 509 the Public Service Commission and shall be exempt from such  
 510 rules. Utilities using the provisions of this section may  
 511 immediately include in their sewer invoicing the new  
 512 environmental protection disposal fee. Proceeds from this  
 513 environmental protection disposal fee shall be used for  
 514 treatment and disposal of wastewater residuals, including any  
 515 treatment technology that helps reduce the volume of residuals  
 516 that require final disposal, but such proceeds shall not be used  
 517 for transportation or shipment costs for disposal or any costs  
 518 relating to the land application of residuals in the Lake  
 519 Okeechobee watershed.

520 c. No less frequently than once every 3 years, the Florida  
 521 Public Service Commission or the county commission through the  
 522 services of an independent auditor shall perform a financial  
 523 audit of all facilities receiving compensation from an  
 524 environmental protection disposal fee. The Florida Public  
 525 Service Commission or the county commission through the services  
 526 of an independent auditor shall also perform an audit of the  
 527 methodology used in establishing the environmental protection  
 528 disposal fee. The Florida Public Service Commission or the  
 529 county commission shall, within 120 days after completion of an  
 530 audit, file the audit report with the President of the Senate  
 531 and the Speaker of the House of Representatives and shall  
 532 provide copies to the county commissions of the counties set

533 forth in sub-subparagraph b. The books and records of any  
 534 facilities receiving compensation from an environmental  
 535 protection disposal fee shall be open to the Florida Public  
 536 Service Commission and the Auditor General for review upon  
 537 request.

538 7. The Department of Health shall require all entities  
 539 disposing of septage within the Lake Okeechobee watershed and  
 540 the remaining areas of Okeechobee, Glades, and Hendry Counties  
 541 to develop and submit to that agency an agricultural use plan  
 542 that limits applications based upon phosphorus loading. By July  
 543 1, 2005, phosphorus concentrations originating from these  
 544 application sites shall not exceed the limits established in the  
 545 district's WOD program.

546 8. The Department of Agriculture and Consumer Services  
 547 shall initiate rulemaking requiring entities within the Lake  
 548 Okeechobee watershed and the remaining areas of Okeechobee,  
 549 Glades, and Hendry Counties which land-apply animal manure to  
 550 develop conservation or nutrient management plans that limit  
 551 application, based upon phosphorus loading. Such rules may  
 552 include criteria and thresholds for the requirement to develop a  
 553 conservation or nutrient management plan, requirements for plan  
 554 approval, and recordkeeping requirements.

555 9. Prior to authorizing a discharge into works of the  
 556 district, the district shall require responsible parties to  
 557 demonstrate that proposed changes in land use will not result in  
 558 increased phosphorus loading over that of existing land uses.

559 10. The district, the department, or the Department of  
 560 Agriculture and Consumer Services, as appropriate, shall



561 | implement those alternative nutrient reduction technologies  
 562 | determined to be feasible pursuant to subparagraph (d)6.

563 |         (d) Lake Okeechobee Research and Water Quality Monitoring  
 564 | Program.--The district, in cooperation with the other  
 565 | coordinating agencies, shall establish a Lake Okeechobee  
 566 | Research and Water Quality Monitoring Program that builds upon  
 567 | the district's existing Lake Okeechobee research program. The  
 568 | program shall:

569 |         1. Evaluate all available existing water quality data  
 570 | concerning total phosphorus in the Lake Okeechobee watershed,  
 571 | develop a water quality baseline to represent existing  
 572 | conditions for total phosphorus, monitor long-term ecological  
 573 | changes, including water quality for total phosphorus, and  
 574 | measure compliance with water quality standards for total  
 575 | phosphorus, including the total maximum daily load for Lake  
 576 | Okeechobee as established pursuant to s. 403.067. The district  
 577 | shall also implement a total phosphorus monitoring program at  
 578 | all inflow structures to Lake Okeechobee.

579 |         2. Develop a Lake Okeechobee water quality model that  
 580 | reasonably represents phosphorus dynamics of the lake and  
 581 | incorporates an uncertainty analysis associated with model  
 582 | predictions.

583 |         3. Determine the relative contribution of phosphorus from  
 584 | all identifiable sources and all primary and secondary land  
 585 | uses.

586 |         4. Conduct an assessment of the sources of phosphorus from  
 587 | the Upper Kissimmee chain-of-lakes and Lake Istokpoga, and their  
 588 | relative contribution to the water quality of Lake Okeechobee.

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589 The results of this assessment shall be used by the coordinating  
590 agencies to develop interim measures, best management practices,  
591 or regulation, as applicable.

592 5. Assess current water management practices within the  
593 Lake Okeechobee watershed and develop recommendations for  
594 structural and operational improvements. Such recommendations  
595 shall balance water supply, flood control, estuarine salinity,  
596 maintenance of a healthy lake littoral zone, and water quality  
597 considerations.

598 6. Evaluate the feasibility of alternative nutrient  
599 reduction technologies, including sediment traps, canal and  
600 ditch maintenance, fish production or other aquaculture,  
601 bioenergy conversion processes, and algal or other biological  
602 treatment technologies.

603 (e) Lake Okeechobee Exotic Species Control Program.--The  
604 coordinating agencies shall identify the exotic species that  
605 threaten the native flora and fauna within the Lake Okeechobee  
606 watershed and develop and implement measures to protect the  
607 native flora and fauna.

608 (f) Lake Okeechobee Internal Phosphorus Management  
609 Program.--The district, in cooperation with the other  
610 coordinating agencies and interested parties, shall complete a  
611 Lake Okeechobee internal phosphorus load removal feasibility  
612 study. The feasibility study shall be based on technical  
613 feasibility, as well as economic considerations, and address all  
614 reasonable methods of phosphorus removal. If methods are found  
615 to be feasible, the district shall immediately pursue the  
616 design, funding, and permitting for implementing such methods.

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617 (g) Lake Okeechobee Protection Plan implementation.--The  
 618 coordinating agencies shall be jointly responsible for  
 619 implementing the Lake Okeechobee Protection Plan, consistent  
 620 with the statutory authority and responsibility of each agency.  
 621 Annual funding priorities shall be jointly established, and the  
 622 highest priority shall be assigned to programs and projects that  
 623 address phosphorus sources that have the highest relative  
 624 contribution to phosphorus loading and the greatest potential  
 625 for phosphorus reduction. In determining funding priorities, the  
 626 coordinating agencies shall also consider the need for  
 627 regulatory compliance, the extent to which the program or  
 628 project is ready to proceed, and the availability of federal  
 629 matching funds or other nonstate funding, including public-  
 630 private partnerships. Federal and other nonstate funding shall  
 631 be maximized to the greatest extent practicable.

632 ~~(h) Annual progress report. Each March 1, beginning in~~  
 633 ~~2006, the district shall report on implementation of this~~  
 634 ~~section as part of the consolidated annual report required in s.~~  
 635 ~~373.036(7). The annual report shall include a summary of water~~  
 636 ~~quality and habitat conditions in Lake Okeechobee and the Lake~~  
 637 ~~Okeechobee watershed and the status of the Lake Okeechobee~~  
 638 ~~Construction Project. The district shall prepare the report in~~  
 639 ~~cooperation with the other coordinating agencies.~~

640 (4) LAKE OKEECHOBEE PROTECTION PERMITS.--

641 (a) The Legislature finds that the Lake Okeechobee  
 642 Protection Program will benefit Lake Okeechobee and downstream  
 643 receiving waters and is consistent with the public interest. The  
 644 Lake Okeechobee Construction Project and structures discharging

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645 into or from Lake Okeechobee shall be constructed, operated, and  
 646 maintained in accordance with this section.

647 (b) Permits obtained pursuant to this section are in lieu  
 648 of all other permits under this chapter or chapter 403, except  
 649 those issued under s. 403.0885, if applicable. No additional  
 650 permits are required for the Lake Okeechobee Construction  
 651 Project or structures discharging into or from Lake Okeechobee,  
 652 if permitted under this section. Construction activities related  
 653 to implementation of the Lake Okeechobee Construction Project  
 654 may be initiated prior to final agency action, or notice of  
 655 intended agency action, on any permit from the department under  
 656 this section.

657 (c) Within 90 days of completion of the diversion plans  
 658 set forth in Department Consent Orders 91-0694, 91-0707, 91-  
 659 0706, 91-0705, and RT50-205564, owners or operators of existing  
 660 structures which discharge into or from Lake Okeechobee that are  
 661 subject to the provisions of s. 373.4592(4)(a) shall apply for a  
 662 permit from the department to operate and maintain such  
 663 structures. By September 1, 2000, owners or operators of all  
 664 other existing structures which discharge into or from Lake  
 665 Okeechobee shall apply for a permit from the department to  
 666 operate and maintain such structures. The department shall issue  
 667 one or more such permits for a term of 5 years upon the  
 668 demonstration of reasonable assurance that schedules and  
 669 strategies to achieve and maintain compliance with water quality  
 670 standards have been provided for, to the maximum extent  
 671 practicable, and that operation of the structures otherwise  
 672 complies with provisions of ss. 373.413 and 373.416.

673 1. Permits issued under this paragraph shall also contain  
 674 reasonable conditions to ensure that discharges of waters  
 675 through structures:

- 676 a. Are adequately and accurately monitored;
- 677 b. Will not degrade existing Lake Okeechobee water quality  
 678 and will result in an overall reduction of phosphorus input into  
 679 Lake Okeechobee, as set forth in the district's Technical  
 680 Publication 81-2 and the total maximum daily load established in  
 681 accordance with s. 403.067, to the maximum extent practicable;  
 682 and
- 683 c. Do not pose a serious danger to public health, safety,  
 684 or welfare.

685 2. For the purposes of this paragraph, owners and  
 686 operators of existing structures which are subject to the  
 687 provisions of s. 373.4592(4)(a) and which discharge into or from  
 688 Lake Okeechobee shall be deemed in compliance with the term  
 689 "maximum extent practicable" if they are in full compliance with  
 690 the conditions of permits under chapters 40E-61 and 40E-63,  
 691 Florida Administrative Code.

692 3. By January 1, 2004, the district shall submit to the  
 693 department a permit modification to the Lake Okeechobee  
 694 structure permits to incorporate proposed changes necessary to  
 695 ensure that discharges through the structures covered by this  
 696 permit achieve state water quality standards, including the  
 697 total maximum daily load established in accordance with s.  
 698 403.067. These changes shall be designed to achieve such  
 699 compliance with state water quality standards no later than  
 700 January 1, 2015.

701 (d) The department shall require permits for Lake  
 702 Okeechobee Construction Project facilities. However, projects  
 703 identified in sub-subparagraph (3)(b)1.b. that qualify as exempt  
 704 pursuant to s. 373.406 shall not need permits under this  
 705 section. Such permits shall be issued for a term of 5 years upon  
 706 the demonstration of reasonable assurances that:

707 1. The Lake Okeechobee Construction Project facility,  
 708 based upon the conceptual design documents and any subsequent  
 709 detailed design documents developed by the district, will  
 710 achieve the design objectives for phosphorus required in  
 711 paragraph (3)(b);

712 2. For water quality standards other than phosphorus, the  
 713 quality of water discharged from the facility is of equal or  
 714 better quality than the inflows;

715 3. Discharges from the facility do not pose a serious  
 716 danger to public health, safety, or welfare; and

717 4. Any impacts on wetlands or state-listed species  
 718 resulting from implementation of that facility of the Lake  
 719 Okeechobee Construction Project are minimized and mitigated, as  
 720 appropriate.

721 (e) At least 60 days prior to the expiration of any permit  
 722 issued under this section, the permittee may apply for a renewal  
 723 thereof for a period of 5 years.

724 (f) Permits issued under this section may include any  
 725 standard conditions provided by department rule which are  
 726 appropriate and consistent with this section.

727 (g) Permits issued pursuant to this section may be  
 728 modified, as appropriate, upon review and approval by the

729 department.

730 (5) CALOOSAHATCHEE AND ST. LUCIE RIVER AND ESTUARY  
 731 PROTECTION PROGRAM.--A protection program for the estuaries  
 732 shall be developed and implemented as specified in this  
 733 subsection. The program shall address the reduction of pollutant  
 734 loadings to the estuaries, restoration of natural hydrology, and  
 735 compliance with applicable state water quality standards. The  
 736 program shall be achieved through a phased program of  
 737 implementation. In addition, pollutant load reductions based  
 738 upon adopted total maximum daily loads established in accordance  
 739 with s. 403.067 shall serve as a program objective. In the  
 740 development and administration of the program, the coordinating  
 741 agencies shall maximize opportunities provided by federal and  
 742 local government cost-sharing programs and opportunities for  
 743 partnerships with the private sector and local government. The  
 744 department is directed to develop and adopt total maximum daily  
 745 loads for the estuaries. The department is further directed to  
 746 develop and adopt numeric standards for those state water  
 747 quality parameters that contribute to degradation of estuarine  
 748 water quality and habitat.

749 (a) Estuary Protection Plan.--No later than January, 1  
 750 2009, the district, in cooperation with the other coordinating  
 751 agencies, Martin and Lee Counties, and other affected local  
 752 governments, shall complete an Estuary Protection Plan in  
 753 accordance with this subsection. The plan shall contain an  
 754 implementation schedule for pollutant load reductions consistent  
 755 with any adopted total maximum daily loads and compliance with  
 756 applicable state water quality standards. The plan shall

757 develop, consider, and build upon a review and analysis of the  
 758 following:

759 1. Relevant information resulting from the Estuary  
 760 Watershed Pollutant Control Program developed pursuant to this  
 761 subsection.

762 2. Relevant information resulting from the Estuary  
 763 Research, Water Quality, and Habitat Monitoring Program  
 764 developed pursuant to this subsection.

765  
 766 Data analysis shall include the creation of appropriate  
 767 hydraulic and water quality models that shall be updated as new  
 768 information is collected. These models shall be used to develop  
 769 design objectives for the Estuary Construction Project and  
 770 improvement of estuarine water quality and habitat.

771 (b) Estuary Construction Project.--To improve the  
 772 hydrology, water quality, and habitats within the estuaries, the  
 773 district shall, no later than January 1, 2012, plan, design, and  
 774 construct the initial phase of estuary construction projects. In  
 775 doing so, the district shall:

776 1. Develop and designate the Estuary Construction Project  
 777 facilities to be constructed to achieve stated goals and  
 778 objectives of the Estuary Protection Plan.

779 2. Identify the size and location of all such Estuary  
 780 Construction Project facilities.

781 3. Provide a construction schedule for all such Estuary  
 782 Construction Project facilities, including the sequencing and  
 783 specific timeframe for construction of each Estuary Construction  
 784 Project facility.



785 4. Provide a schedule for the acquisition of lands or  
 786 sufficient interests necessary to achieve the construction  
 787 schedule.

788 5. Provide a schedule of costs and benefits associated  
 789 with each construction project and identify funding sources.

790  
 791 To ensure the timely implementation to the Estuary Construction  
 792 Project, the design of project facilities shall be coordinated  
 793 with the department, Lee and Martin Counties, other interested  
 794 parties, and other affected local governments.

795 (c) Estuary Watershed Pollutant Control Program.--The  
 796 Estuary Watershed Pollutant Control Program is designed to be a  
 797 multifaceted approach to reducing pollutant loads by improving  
 798 the management of pollutant sources within the estuary  
 799 watersheds through continued implementation of existing  
 800 regulations and best management practices, development and  
 801 implementation of improved best management practices,  
 802 improvement and restoration of the hydrologic function of  
 803 natural and managed systems, and utilization of alternative  
 804 technologies for pollutant reduction. The coordinating agencies  
 805 shall facilitate the utilization of federal programs that offer  
 806 opportunities for water quality treatment, including  
 807 preservation, restoration, or creation of wetlands on  
 808 agricultural lands.

809 1. Nonpoint source best management practices, designed to  
 810 achieve the objectives of the Estuary Protection Program, shall  
 811 be implemented on an expedited basis. The coordinating agencies  
 812 shall develop an intergovernmental agreement that ensures the

813 development of best management practices that complement  
 814 existing regulatory programs and specifies how such best  
 815 management practices are implemented and verified. The  
 816 coordinating agencies may enter into intergovernmental  
 817 agreements with local governments. The coordinating agencies  
 818 shall develop an intergovernmental agreement with Lee County or  
 819 Martin County or both counties to implement this subsection  
 820 within their respective geographic boundaries.

821 2. The district or department shall conduct monitoring at  
 822 representative sites as selected by scientific and statistical  
 823 methods to verify the effectiveness of nonpoint source best  
 824 management practices.

825 3. Where water quality problems are detected for nonpoint  
 826 sources, despite the appropriate implementation of adopted best  
 827 management practices, the department or Department of  
 828 Agriculture and Consumer Services, as appropriate, pursuant to  
 829 s.403.067, in consultation with the other coordinating agencies  
 830 and affected parties, shall institute a reevaluation of the best  
 831 management practices and adopt by rule more effective best  
 832 management practices.

833 4. Nothing in this subsection precludes the department or  
 834 the district from requiring compliance with water quality  
 835 standards, adopted total maximum daily loads, or current best  
 836 management practices requirements set forth in any applicable  
 837 regulatory program authorized by law for the purpose of  
 838 protecting water quality. This subsection is applicable only to  
 839 the extent that it does do not conflict with any rules  
 840 promulgated by the department or district that are necessary to

841 | maintain a federally delegated or approved program.

842 |       5. Projects that make use of private lands, or lands held  
 843 | in trust for Indian tribes, to reduce pollutant loadings or  
 844 | concentrations within a basin, or that reduce the volume of  
 845 | harmful discharges from Lake Okeechobee or the estuary  
 846 | watersheds, by one or more of the following methods: restoring  
 847 | the natural hydrology of the basin, restoring wildlife habitat  
 848 | or impacted wetlands, reducing peak flows after storm events, or  
 849 | increasing aquifer recharge, are eligible for grants available  
 850 | under this section from the coordinating agencies. In addition,  
 851 | special funding priority will be given to projects that obtain  
 852 | federal or local government match money. Preference ranking  
 853 | above the special funding priority shall be given to projects  
 854 | located in a rural area of critical economic concern designated  
 855 | by the Governor. Grant applications may be submitted by any  
 856 | person or tribal entity, and eligible projects may include, but  
 857 | are not limited to, the purchase of conservation and flowage  
 858 | easements, hydrologic restoration of wetlands, creation of  
 859 | treatment wetlands, development of a management plan for natural  
 860 | resources, and financial support to implement the management  
 861 | plan.

862 |       6. Prior to authorizing a discharge into the estuaries,  
 863 | the district shall require responsible parties to demonstrate  
 864 | that proposed changes in land use will not result in increased  
 865 | pollutant loading and increased runoff volume over that of  
 866 | existing land uses.

867 |       (d) Estuary Research, Water Quality, and Habitat  
 868 | Monitoring Program.--The district, in cooperation with the other

869 coordinating agencies and other local governments, shall  
 870 establish an Estuary Research, Water Quality, and Habitat  
 871 Monitoring Program that builds upon the district's existing  
 872 research program. The program shall:

873 1. Evaluate all available existing water quality data  
 874 concerning total pollutants in the estuaries' watersheds,  
 875 develop a water quality baseline to represent existing  
 876 conditions, and measure compliance with water quality standards,  
 877 achievement of salinity targets, and total maximum daily loads  
 878 for the estuaries. The district shall also implement pollutant  
 879 monitoring programs at representative sites as selected by  
 880 scientific and statistical methods to quantify inflows to the  
 881 estuaries.

882 2. Develop and improve estuary water quality models that  
 883 reasonably represent the dynamics of the estuaries and  
 884 incorporate an uncertainty analysis associated with model  
 885 predictions.

886 3. Determine the relative contribution of pollutants and  
 887 runoff from all major sources.

888 4. Evaluate all available estuarine research, habitat  
 889 monitoring data, and restoration data, develop a habitat  
 890 baseline to represent existing and desired future conditions,  
 891 and measure success in enhancing habitat values.

892 5. Conduct an assessment of the water volumes and timing  
 893 from the upstream Lake Okeechobee watershed, including the  
 894 Kissimmee chain-of-lakes and Lake Istokpoga and its watershed  
 895 and the lower portion of the Lake Okeechobee watershed, and  
 896 their relative contribution to the water level changes in Lake

897 Okeechobee. The results of this assessment shall be used by the  
898 coordinating agencies to develop operational and structural  
899 measures or regulations, as applicable, to benefit the  
900 estuaries.

901 6. Assess current water management practices within the  
902 estuary watersheds and develop recommendations for structural,  
903 nonstructural, and operational improvements. Such  
904 recommendations shall consider and balance water supply, flood  
905 control, estuarine salinity, estuarine habitat, and water  
906 quality considerations.

907 (e) Estuary Protection Plan implementation.--The  
908 coordinating agencies shall be jointly responsible for  
909 implementing the Estuary Protection Plan, consistent with the  
910 statutory authority and responsibility of each agency. Annual  
911 funding priorities shall be jointly established, and the highest  
912 priority shall be assigned to programs and projects that have  
913 the greatest potential for achieving the goals and objectives of  
914 the plan. In determining funding priorities, the coordinating  
915 agencies shall also consider the need for regulatory compliance,  
916 the extent to which the program or project is ready to proceed,  
917 and the availability of federal or local government matching  
918 funds. Federal and other nonstate funding shall be maximized to  
919 the greatest extent practicable.

920 (f) Evaluation.--By March 1, 2012, and every 3 years  
921 thereafter, the district, in cooperation with the coordinating  
922 agencies, shall conduct an evaluation of any pollutant load  
923 reduction goals, or other goals, as stated in the Estuary  
924 Protection Plan. Additionally, the district shall identify

925 modifications to facilities of the Estuary Construction Project,  
 926 as appropriate, or any other elements of the Estuary Protection  
 927 Plan. The evaluation shall be included in the annual progress  
 928 report submitted pursuant to subsection (7).

929 (h) Estuary protection permits.--

930 1. The Legislature finds that the Estuary Protection  
 931 Program will benefit the Caloosahatchee and St. Lucie estuaries  
 932 and is consistent with the public interest.

933 2. Permits obtained pursuant to this subsection are in  
 934 lieu of all other permits under this chapter or chapter 403,  
 935 except those issued under s. 403.0885, if applicable. No  
 936 additional permits are required for the Estuary Construction  
 937 Project, if permitted under this subsection.

938 3. The department shall issue one or more such permits for  
 939 a term of 5 years upon the demonstration of reasonable assurance  
 940 that schedules and strategies to achieve and maintain stated  
 941 goals of the Estuary Protection Plan have been provided for, to  
 942 the maximum extent practicable, and that operation of the  
 943 projects otherwise complies with provisions of ss. 373.413 and  
 944 373.416.

945 4. Permits issued under this paragraph shall also contain  
 946 reasonable conditions to ensure that discharges of waters  
 947 through structures:

948 a. Are adequately and accurately monitored;

949 b. Will not degrade existing estuary water quality and  
 950 will result in an overall reduction of pollutant inputs into the  
 951 estuary and the total maximum daily load established in  
 952 accordance with s. 403.067, to the maximum extent practicable;

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and

c. Do not pose a serious danger to public health, safety, or welfare.

5. The district shall submit to the department a permit modification to the Estuary Construction Plan permits to incorporate proposed changes necessary to ensure that discharges from the projects covered by this permit achieve state water quality standards, including the total maximum daily loads established in accordance with s. 403.067.

6. Such permits shall be issued for a term of 5 years upon the demonstration of reasonable assurances that:

a. The Estuary Construction Project facility, based upon the conceptual design documents and any subsequent detailed design documents developed by the district, will achieve the design objectives establish pursuant to this subsection;

b. For water quality standards, the quality of water discharged from the facility is of equal or better quality than the inflows;

c. Discharges from the facility do not pose a serious danger to public health, safety, or welfare; and

d. Any impacts on wetlands or state-listed species resulting from implementation of that facility of the Estuary Construction Project are minimized and mitigated, as appropriate.

7. At least 60 days prior to the expiration of any permit issued under this subsection, the permittee may apply for renewal of the permit for a period of 5 years.

8. Permits issued under this subsection may include any

981 standard conditions provided by department rule which are  
 982 appropriate and consistent with this subsection.

983 9. Permits issued pursuant to this subsection may be  
 984 modified, as appropriate, upon review and approval by the  
 985 department.

986 (6) ~~(5)~~ RESTRICTIONS ON WATER DIVERSIONS.--The South  
 987 Florida Water Management District shall not divert waters to the  
 988 St. Lucie River, the Indian River estuary, the Caloosahatchee  
 989 River or its estuary, or the Everglades National Park, in such a  
 990 way that the state water quality standards are violated, that  
 991 the nutrients in such diverted waters adversely affect  
 992 indigenous vegetation communities or wildlife, or that fresh  
 993 waters diverted to the St. Lucie River or the Caloosahatchee or  
 994 Indian River estuaries adversely affect the estuarine vegetation  
 995 or wildlife, unless the receiving waters will biologically  
 996 benefit by the diversion. However, diversion is permitted when  
 997 an emergency is declared by the water management district, if  
 998 the Secretary of Environmental Protection concurs.

999 (7) ANNUAL PROGRESS REPORT.--The district shall report on  
 1000 implementation of this section as part of the consolidated  
 1001 annual report required in s. 373.036(7). The annual report shall  
 1002 include:

1003 (a) A summary of water quality and habitat conditions in  
 1004 Lake Okeechobee, the Lake Okeechobee watershed, and the status  
 1005 of the Lake Okeechobee Construction Project.

1006 (b) A summary of water quality and habitat conditions in  
 1007 the estuaries and the estuary watersheds and the status of the  
 1008 Estuary Construction Project.



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 1010 The district shall prepare the report in cooperation with the  
 1011 other coordinating agencies as well as affected local  
 1012 governments.

1013 (8)~~(6)~~ PRESERVATION OF PROVISIONS RELATING TO THE  
 1014 EVERGLADES.--Nothing in this section shall be construed to  
 1015 modify any provision of s. 373.4592.

1016 (9)~~(7)~~ RIGHTS OF SEMINOLE TRIBE OF FLORIDA.--Nothing in  
 1017 this section is intended to diminish or alter the governmental  
 1018 authority and powers of the Seminole Tribe of Florida, or  
 1019 diminish or alter the rights of that tribe, including, but not  
 1020 limited to, rights under the water rights compact among the  
 1021 Seminole Tribe of Florida, the state, and the South Florida  
 1022 Water Management District as enacted by Pub. L. No. 100-228, 101  
 1023 Stat. 1556, and chapter 87-292, Laws of Florida, and codified in  
 1024 s. 285.165, and rights under any other agreement between the  
 1025 Seminole Tribe of Florida and the state or its agencies. No land  
 1026 of the Seminole Tribe of Florida shall be used for water storage  
 1027 or stormwater treatment without the consent of the tribe.

1028 (10)~~(8)~~ RELATIONSHIP TO STATE WATER QUALITY  
 1029 STANDARDS.--Nothing in this section shall be construed to modify  
 1030 any existing state water quality standard.

1031 (11)~~(9)~~ PRESERVATION OF AUTHORITY.--Nothing in this  
 1032 section shall be construed to restrict the authority otherwise  
 1033 granted to agencies pursuant to chapters 373 and 403, and  
 1034 provisions of this section shall be deemed supplemental to the  
 1035 authority granted to agencies pursuant to chapters 373 and 403.

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1036 Section 2. Paragraph (e) of subsection (7) of section  
 1037 373.036, Florida Statutes, is amended to read:

1038 373.036 Florida water plan; district water management  
 1039 plans.--

1040 (7) CONSOLIDATED WATER MANAGEMENT DISTRICT ANNUAL  
 1041 REPORT.--

1042 (e) In addition to the elements specified in paragraph  
 1043 (b), the South Florida Water Management District shall include  
 1044 in the consolidated annual report the following elements:

1045 1. The Lake Okeechobee Protection Program annual progress  
 1046 report required by s. 373.4595 (7) ~~(3)~~ ~~(g)~~.

1047 2. The Everglades annual progress reports specified in s.  
 1048 373.4592(4)(d)5., (13), and (14).

1049 3. The Everglades restoration annual report required by s.  
 1050 373.470(7).

1051 4. The Everglades Forever Act annual implementation report  
 1052 required by s. 11.80(4).

1053 5. The Everglades Trust Fund annual expenditure report  
 1054 required by s. 373.45926(3).

1055 Section 3. This act shall take effect July 1, 2007.