2006 was another challenging and rewarding year for the Utility Council, as we accomplished most of our objectives and goals. The legislative and regulatory issues covered were representative of our diverse membership and the concerns faced within their respective areas of the state. As always, the Hopping, Green, Sams Law Firm in Tallahassee performed admirably for us on the legislative, regulatory and associated legal fronts, ensuring that our voice was heard and our concerns known on the issues. Our membership continues to grow with 42 utility members and 17 associate members representing almost 8 million utility customers in Florida.

We continue to actively engage the Florida Department of Environment Protection, to improve communications, understanding of issues, seeking partnerships and common ground to protect our precious environment and ecosystems. We also seek to educate other stakeholders and the legislature on the issues by promoting legislation and regulations that are based on sound scientific principles and deliver quantifiable and verifiable results.

We continue to sponsor research initiatives around the state to gather the necessary scientific data in support of our members and have utility representatives serving on various technical advisory committees to ensure an even playing field.

All members are encouraged to attend our board meetings to learn more about what we do, to participate, be heard, and hopefully become more active. Meetings are held throughout the state to make us more available to our members. I also urge everyone to regularly visit www.fwea.org to keep abreast on what is going on, get the latest information on major issues as well as meeting and event schedules, position papers, and more.

I am looking forward to 2007 and the challenges it will present. I implore everyone to become more active with the Utility Council in some way, shape or manner. I know we are all busy, and at times don’t know where the time goes, but to be effective and successful we need your help, your voices, your issues, your opinions, and most of all, a little of your precious time.

Sincerely,
Henry Hicks
President
SPRINGS LEGISLATION/REGULATION

The FWEAUC fully supports protection of springs and all our water resources of Florida. Our support for any initiative to this extent, whether it be legislative or regulatory, is based on the necessity of having quantifiable and verifiable scientific criteria to support any proposed rule of legislative act. We believe that to truly protect the springs or any other water resource in this state, all potential sources of pollution, point and non-point, be addressed equally and together. To this end, the FWEAUC will actively promote using a mass balance approach to pollution reduction where each entities contribution is identified and a goal for reduction is set.

The FWEAUC has consistently opposed legislation or rulemaking that does not have a solid scientific basis to support it and will continue to do so. In 2007, legislation is again being initiated for springs protection. The FWEAUC has concerns with preliminary language that would circumvent existing law requiring water management district to set MFL’s (minimum flows and levels) for waters within the state. The proposed language could ultimately impact all water systems by restricting existing or future groundwater withdrawals to a yet undetermined historic flow level. Consider what this could mean to you! In addition, draft language would prohibit new POTW’s or associated facilities from being located within springsheds while allowing the use of advanced or enhanced On-Site Treatment and Disposal Systems. This is an alarming situation given that even the best OSTDS systems available today cannot meet the same level of treatment commonly found in the newer POTW’s, more so in those with AWT.

OSTDS ON-SITE TREATMENT AND DISPOSAL SYSTEMS

OSTDS legislation passed last year allowing the use of enhanced septic systems when they can deliver a comparable level of treatment to a POTW within close proximity. When both are available the utility must provide the property owner with a comparative costs analysis for connecting to the central sewer system and installing a comparable OSTDS. The FWEAUC was successful in getting this legislation to this point and has submitted comments to FDOH on its rule, 64E-6, pertaining to OSTDS’s to try and get more oversight, accountability and written performance measurement standards for OSTDS’s. Our position paper, comments to FDOH, and form letter for your use can be found at the Utility Council WebSite. As anticipated, the FWOA intends to file legislation this year to use permit fees for advertising, research and public relations on OSTDS’s. It is also seeking that a portion of permit fees be set aside for grants to replace failing systems for property owners that fall into a defined level of poverty. Ironically, nowhere in their legislative proposal does the concept of using these grant dollars to connect failing systems to central sewer systems when they are available and probably allot more costs effective to do so! A similar approach is being used in HB 357 for the Wekiva Basin. Our position on the OSTDS issue has not changed and we will be actively participating in any legislative efforts regarding this subject again this year. We encourage members and concerned utilities to contact their local legislative delegations and submit comments.
Over the past 20 years, a number of observers have noted surficial changes on the reef colonies in Southeast Florida. The economic contribution to Southeast Florida from the reef industry is over $1.9 billion annually while employing over 61,000 Floridians. The health and protection of the reef environment must be of utmost importance to the local, state and federal governments. Investigation on what is causing the degradation of the reef colonies continues to be limited. Excessive terrestrial nutrients caused by municipal treatment systems have been suggested by some as a potential contributor to the changes in the reef structure. In response to this concern and to address the knowledge void, the Florida Area Coastal Environmental (FACE) initiative was developed as a long-term program to gather quality controlled measurements of nutrients and to quantify those nutrients for sources at multiple locations in the coastal waters of Southeast Florida.

In order to gain a better understanding of nutrient factors that may potentially affect the health of a reef system, a comprehensive analysis including the measurement and quantification of nutrients from each source must be conducted. Examples of nutrients include: nitrites, nitrogen ammonia (un-ionized ammonia), ammonium, phosphorus and micronutrients such as selenium, copper, iron, zinc and others.

In order to determine the impact of these nutrients on coral reefs, scientific based studies that extensively measure and quantify a variety of known nutrient sources including, but not limited to the impacts of nutrient discharges from canals, ports, beach renourishment and dredging activities, subsurface groundwater discharges, septic tanks, atmospheric deposition, ocean outfalls, and deep ocean upwelling must be conducted. At this time, only ocean outfalls have been studied, the other nutrient sources have been identified with varying contributions that are yet unknown or understood. Other potential causes of reef impacts that have been suggested but not studied extensively include; biological changes (loss of algae consumers in the food chain), contributions of global warming, weather patterns such as El Nino, movement of Gulf waters into the open ocean and the flow of Caribbean waters into the Florida Current.

The FACE initiative is intended to comprehensively study, measure, and quantify sources of nutrients in the coastal ocean and their effects on ocean reefs.
In order to completely understand the effects of nutrients on ocean reefs, sound, scientifically defensible, peer-reviewed data is required.

FWEA Utility Council has supported, and continues to support comprehensive scientific efforts to characterize ocean outfall discharges and to identify causes and possible solutions to the declining of the coral reef ecosystem. Members of the work group have and will continue to commit personnel and funding resources to this effect for the next several years.

The FWEA Utility Council supports the implementation of economically and environmentally appropriate regulatory standards to improve reef health that are based on scientifically sound data that involves a comprehensive analysis of the mass balance of nutrients in the coastal ocean. Because of the leadership within the Utility Council, we are in the forefront of better understanding the localized ocean science.

The net result of the above studies will be a scientific based understanding of ocean outfalls and the potential impacts on the coastal ocean environment. Significant additional funding and research is necessary to more fully characterize the relative impacts of nutrient discharges from canals, ports, beach renourishment and dredging activities, subsurface groundwater discharges, septic tanks, atmospheric deposition, and deep ocean upwelling.

**TRIENNIAL REVIEW**

FDEP is expected to initiate the next round of Triennial Review early in 2007. This initiative will involve proposed changes to water quality standards that have been, and will continue to be, of extreme interest to Florida’s utilities. Expected rule proposals will include a new un-ionized ammonia standard applicable in marine waters and a tougher specific conductance standard. Also, DEP has stated that it will finalize, in the context of Triennial Review, the draft amendments to water quality standards based on human fish consumption rates and risk analysis factors. The FWEA Utility Council has been actively involved with all of these issues previously, and it appears that they will come to resolution via rule development in 2007.

**REUSE**

2006 was another year of minimal state rulemaking or legislative activities related to reclaimed water. Minor changes were adopted to the Reuse Rule (62-610, Florida Administrative Code) that amended the Annual Reuse Report Form and the Pathogen Monitoring Form, allowed for alternate types of devices or equipment to continuously monitor total suspended solids in reclaimed water at water reclamation facilities and incorporated the requirement for all wastewater treatment facilities with a capacity of 100,000 gpd or greater to utilize specified analytical methods for primary and secondary drinking water standards analysis.
The changes to the Rule were generally not controversial; however, a requirement that reclaimed water pathogen monitoring samples in which the reported number of viable cysts of Giardia and viable oocysts of Cryptosporidium exceeded levels established in the Rule must be re-sampled for both pathogens and the results reported to FDEP within certain time constraints, generated some concern from our membership.

The concern was over the cost of resampling resulting from this requirement. The Utility Council, on behalf of its members, had its legal counsel prepare a letter to David York expressing concern with the new pathogen monitoring provisions, noting that the tests are expensive and that the retest provisions seem excessive and add what appears to be an unwarranted new expenditure. The letter further noted that the re-sampling trigger levels seemed to imply an action level that would be used by FDEP as a basis to impose additional requirements. Finally, the letter noted that such pathogen concentration expectations appeared to be implicit environmental standards and, as such, should receive full consideration of the necessity, cost of treatment, and similar appropriate factors. These changes to 62-610 became effective on March 9, 2006.

**TMDL’S**

With regard to promulgation of TMDLs in Florida, 2006 was characterized by considerable activity and controversy. The rulemaking associated with Florida's Impaired Waters Rule (IWR), the methodology for listing impaired waters, promulgation of TMDLs and federal litigation that may potentially impact Florida's regulated community are highlights of the past year. The state IWR and the Lower St. Johns River were mired in federal court proceedings; however, recently, the court ruled in favor of the EPA in the IWR litigation. This ruling should bring federal litigation over Florida’s IWR to an end.

Florida’s IWR (62-303), in its entirety has been approved as a part of Florida’s water quality standards; however, it is expressly limited in scope to “apply solely for purposes of assessment and listing” in implementing the state’s TMDL Program. Benchmarks and effluent limitations in the IWR are not intended to represent new water quality criteria or to be the basis for effluent limitations in discharge permits. The IWR is limited in applicability to water quality standards attainment decisions as part of the process to list impaired waters.

Most substantive changes to the state’s IWR are intended to resolve differences between EPA and FDEP that resulted in EPA adding waters to Florida’s 303(d) list, based upon EPA’s interpretation and application of Florida’s standards. The final Rule revisions did not present any controversial issues for the regulated community.

FDEP adopted a considerable number of TMDLs in 2006. Basins impacted include the Ocklawaha River Basin, Lower St. Johns River Basin, Middle St. John River Basin, Upper St. Johns River and the Caloosahatchee River Basin. Final TMDLs may be reviewed on FDEP’s TMDL website at [http://www.dep.state.fl.us/water/tmdl/final_tmdl.html](http://www.dep.state.fl.us/water/tmdl/final_tmdl.html). All TMDLs are adopted by rule and are also available by reviewing
Chapter 62-304, Florida Administrative Code, at “FAC Online” at http://fac.dos.state.fl.us/, as well as DEP’s OGC website at http://www.dep.state.fl.us/legal/Rules/mainrulelist.htm. The EPA filed a report to the federal district court in Tallahassee identifying the water bodies for which EPA has proposed a TMDL, as required by federal consent decree. The EPA proposed TMDLs for waters within the Caloosahatchee River Basin, the Everglades Basin, Fisheating Creek Basin, Indian River Lagoon, Kissimmee River Basin, Lake Okeechobee Basin, Nassau River Basin, Southeast Coast-Biscayne Bay and the St. Lucie-Loxihatchee Basin.

CONSERVE FLORIDA

The initiative to develop a statewide goal based water conservation program, Conserve Florida, which has been supported by FWEAUC progressed over the past year and is nearing possible implementation. A statewide Water Conservation Clearinghouse has been established at the University of Florida to establish a database and resource center for utilities participating in the Conserve Florida goal based program. The clearinghouse will provide utilities with the ability to evaluate and benchmark individual conservation practices from a statewide database.

FWEAUC provided a grant of $15,000 for the start-up of the clearinghouse. Additionally the Utility Council is supporting the efforts of the FSAWWA Utility Council to have the legislature establish a source of funding for the clearinghouse. Conserve Florida has also completed the initial version of an internet, computer-based guidance document to assist utilities in developing a goal based water conservation program. Several utilities were piloting a guidance document in December 2006.

The final hurdle to begin implementation of Conserve Florida across the state is the consistent and somewhat uniform adoption of the program into the Water Management Districts’ Water Use Permitting regulatory process. Negotiations between representatives of the various Water Management Districts, FDEP, and Utility representatives from FWEAUC and FSAWWAUC were proceeding through the first quarter of 2007.
BACK ROW: Charles Flynn, Todd Tanberg, James Oskowis, Paul Steinbrecher, James Alves, Thomas Helgeson, Raymond Hanson, Chris Helfrich, David Picard and Alexander Diaz. FRONT ROW: Lisa Wilson-Davis, Henry Hicks, and Susanne Goss.

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