

2019 ANNUAL REPORT



**Florida Water
Environment
Association**

UTILITY COUNCIL

wef Member Association





PRESIDENT'S MESSAGE

Paul Steinbrecher, JEA

As our state continues to grow, our utilities are continuously working to meet the challenges of ensuring protection of public health and the environment as we provide affordable essential services to our customers, the citizens of Florida.

This year has seen the acceleration of a trend of recent years of increased interest from elected and appointed officials on clean water issues as the state focuses on sustainable water resource issues to ensure continued growth and prosperity. We saw complex water management and nearshore water quality issues from the southern part of the state explode into a statewide political issue in the fall. In response, there is more focus than ever before on these issues both from executive and legislative branches at the state level.

Governor DeSantis has come into office with a highly defined focus on ensuring sustainable supply and surface water quality. His first steps include recommending an unprecedented \$625 million environmental budget, the establishment of a new statewide Chief Science Officer, the appointment of an Algae Bloom Task Force, and a sharpened focus on completing Everglades restoration projects.

The FWEA Utility Council ("Utility Council") has been engaged on behalf of its members on these issues on a number of fronts.

We accomplish our advocacy work through open dialogue amongst our members to discern areas of common interest, and then implement policy advocacy through working subgroups lead by various board members and broadly consisting of any and all interested utility members. Several areas of keen interest this year for our members have been biosolids, septic to sewer guidance, and co-leading the development of a framework for potable reuse. You will see updates on these and other issues in the following sections of this Annual Report.

The Utility Council maintains strong working relationships with our state regulatory agencies and elected officials. This year, there were several opportunities to provide input regarding best practices in our industry to leaders focused on these issues. We also held our traditional "FDEP Day." This year we postponed the meeting until March to allow time for Florida Department of Environmental Protection ("FDEP") leadership to coalesce around the Governor's initiatives. They reflected to us the administration's focus on nutrient management and on continuous improvement in resiliency planning and SSO reduction.





PRESIDENT'S MESSAGE

Paul Steinbrecher, JEA

In response to several of the legislative proposals this year, our members undertook a fast track effort to help distill messaging around what a well-funded and operated utility looks like. Special thanks to Past President, Lisa Wilson-Davis and Vice President, Rick Hutton, for their willingness and ability to provide testimony this spring on these issues in front of the Senate Agriculture and Natural Resources Appropriations Committee. We will need to continue active dialogue on these issues.

We continue to receive exceptional value from our legal consultant, Hopping Green and Sams. They provide monitoring of state and federal water policy issues, as well as represent our interests on a daily basis in Tallahassee on numerous issues. As we near the end of session, one bill of particular focus again, is Blue Star legislation which seeks to establish an incentive-based, voluntary best management program for utility collection system assessment and maintenance. You will find this year's legislative update summary particularly interesting.

We also remain focused on education to maintain our ability to focus utility investments where they will be most effective in continuously improving service levels, maintaining affordability, and protecting health and the environment. Because of the interest in red-tide research, this year's annual meeting speaker is Dr. Robert Weisburg who will address us on "Red-Tide: What We Know, Don't Know and What To Do About It." Dr. Weisburg is a Distinguished Professor of Physical Oceanography at the University of South Florida College of Marine Science. His research activities focus on ocean circulation and ocean-atmosphere interaction studies in the tropics, on continental shelves, and in estuaries.

The value and success of the Utility Council remains rooted in the active engagement of our members. The Utility Council has a proud tradition of thoughtful deliberation so that we can discern those positions that "rise all boats", and then speak with one voice on important policy issues. I thank you for the honor to serve the Utility Council in a leadership capacity, and on behalf of the Board, thank you for your membership and participation.

Best,

Paul Steinbrecher, P.E.

President, FWEA Utility Council





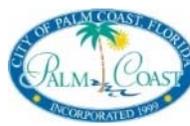
AMENDMENT 1 LITIGATION

Adam Blalock, Hopping Green & Sams

The Florida Water and Land Conservation Initiative appeared as Amendment 1 on the November 2014 Florida ballot. The measure passed and became Article X, Section 28 of the Florida Constitution. Amendment 1 requires that the Land Acquisition Trust Fund (“LATF”) receive at least 33 percent of net revenues derived from the existing excise tax on documents each year for 20 years. These funds deposited to the LATF must be spent only for the following reasons:

1. To finance or refinance:
 - a. The acquisition and improvement of land, water areas, and related property interests, including conservation easements, and resources for conservation lands including wetlands, forests, and fish and wildlife habitat;
 - b. Wildlife management areas;
 - c. Lands that protect water resources and drinking water sources, including lands protecting the water quality and quantity of rivers, lakes, streams, springsheds, and lands providing recharge for groundwater and aquifer systems;
 - d. Lands in the Everglades Agricultural Area and the Everglades Protection Area;
 - e. Beaches and shores;
 - f. Outdoor recreation lands, including recreational trails, parks, and urban open space;
 - g. Rural landscapes;
 - h. Working farms and ranches;
 - i. Historic or geologic sites;
 - j. Together with management, restoration of natural systems, and the enhancement of public access or recreational enjoyment of conservation lands.
2. To pay the debt service on bonds issued to finance or refinance the acquisition and improvement of land, water areas, and related property interests and resources for the purposes of conservation, outdoor recreation, water resource development, restoration of natural systems, and historic preservation.

The Florida Legislature implements Amendment 1 through the state’s budget. Beginning in 2015, and each fiscal year thereafter since the passage of Amendment 1, the Legislature has expended LATF dollars to fund various projects and state programs that benefit Florida’s environment. This has also included allocating some LATF dollars to fund staff salaries and other administrative costs of those state agencies responsible for carrying out such projects and programs. Environmental groups, however, held the opinion that not





AMENDMENT 1 LITIGATION

Adam Blalock, Hopping Green & Sams

enough money was being spent on land acquisition and that LATF dollars were being used for purposes beyond the intended scope of Amendment 1. As a result, certain environmental groups (primarily the Florida Wildlife Federation and Earth Justice) filed suit challenging certain LATF allocations made in the 2015 and 2016 state budgets to fund salaries and other administrative costs. The environmental groups argued that the intent of Amendment 1 was to require LATF dollars to be used for only for acquisition and management of conservation lands.

On June 28, 2018, Circuit Court Judge Charles Dodson entered a final judgment granting the environmental groups' motion for summary judgment in the Amendment 1 litigation. Judge Dodson's order took a very narrow view of how LATF dollars could be allocated. In short, Judge Dodson interpreted Article X, Section 28 as only allowing LATF dollars to be used for the following purposes:

1. Acquiring new conservation lands; and
2. Improving, managing, restoring, or enhancing public access of such new conservation lands.

Thus, under Judge Dodson's order, environmentally beneficial projects occurring on lands already owned by the State when Amendment 1 was adopted could not be funded through allocations from the LATF. This includes springs protection funding, everglades restoration funding, beach restoration funding, various water quality and water supply project funding, etc. Such a narrow interpretation of how Amendment 1 dollars can be spent would have a significant impact on the State's budget and environment.

In response to Judge Dodson's order, on July 26, 2018, the Florida Legislature filed a Notice of Appeal with the Florida First District Court of Appeal seeking reversal of the order. On December 21, 2018, Appellant, the Florida Legislature, filed its initial brief with the court. Because of the potential impacts Judge Dodson's order could have on a multitude of water quality projects, including septic-to-sewer projects, the Utility Council filed an *amicus curiae* brief in support of Appellant, Florida Legislature's, efforts to have Judge Dodson's order overturned. Multiple other parties also filed *amicus curiae* briefs in support of both Appellants and Appellees.

Most recently, on April 1, 2019, the Florida Legislature was granted an extension of time to file its reply brief extending the deadline to April 18, 2019. Once the reply brief has been filed the case will be fully briefed and the parties will await a ruling by the court.





POTABLE REUSE COMMISSION

Jo Ann Jackson, City of Altamonte Springs, Paul Steinbrecher, JEA & Chuck Weber, City of Tampa

Florida’s reuse regulations have been in place since the 1990s and have served the state well; however, as several utilities are beginning to explore potable reuse as an alternative water supply, it is evident that the rules need to be expanded to provide regulation for potable reuse. Groundwater recharge and indirect potable reuse are addressed in existing regulations but there are no specific rules for direct potable reuse, and additional regulatory clarity would be helpful to protect the investments of utilities planning for any type of potable reuse.

The development of rules must first start with legislative action that will direct FDEP to initiate rulemaking. To facilitate this process and support local governments in water supply planning efforts, Florida WaterReuse Association (“WRFL”), in collaboration with the Utility Council and the Florida Section American Water Works Association Utility Council (“FSAWWAUC”) formed the Potable Reuse Commission (“PRC”) in early 2018. The purpose of the PRC is to create a consensus driven partnership from a wide array of stakeholders to develop the framework for the implementation of potable reuse in Florida. PRC membership is composed of utilities, agriculture, environment, public health, universities, and the business community. FDEP and State Water Management Districts have expressed support for the PRC and have been actively engaged in PRC meetings, workshops and working groups. The PRC efforts are funded by contributions from each of the three water sector agencies, with contributions also from the St. Johns River Water Management District, Southwest Florida Water Management District and South Florida Water Management District.

Development of a framework for implementation of potable reuse is anticipated to be a multi-year process with the following initial goals:

1. Draft legislation
2. Develop a Potable Reuse Framework Report
3. Identify a path forward → Implementation Plan

PRC Membership

Lynn Spivey, City of Plant City, WRFL
 Bart Weiss, Hillsborough County, WRFL
 Brian Wheeler, Toho Water Authority, FSAWWAUC
 Paul Steinbrecher, JEA, Utility Council
 Chuck Weber, City of Tampa, FSAWWAUC
 Jo Ann Jackson, City of Altamonte Springs, Utility Council

Dr. Donna Petersen, USF College of Public Health
 Kerry Kates, Florida Fruit and Vegetable Association
 Dean Bodager, Florida Department of Health
 Garrett Wallace, Nature Conservancy of Florida
 Jim Spratt, Associated Industries of Florida





POTABLE REUSE COMMISSION

Jo Ann Jackson, City of Altamonte Springs, Paul Steinbrecher, JEA & Chuck Weber, City of Tampa

Meetings are facilitated by Mark Hammond who is an independent consultant recently retired from the Southwest Florida Water Management District. Jeffrey Mosher, as a consultant to the Water Environment Research Foundation, is leading public workshops and will develop the Potable Reuse Regulatory Framework report based on input from the workshops and direction from the PRC.

The PRC began meeting monthly in February 2018. The goal was to have draft legislation and a Potable Reuse Regulatory Framework document completed by December 2018. A draft document was presented in late 2018, however there were several items that required additional work and the group felt that the timing was not right to push forward legislation during the 2019 session. Instead, work has continued with the primary focus on working groups formed to tackle two unresolved items:

- Protecting Utility Investments – identifying whether changes in Florida water law are needed to allow for utilities to benefit from their investment in potable reuse.
- Emerging Constituents Regulatory Sub-Team – focusing on how to address concerns with emerging constituents in potable reuse. Recommending addressing the issue as a source water issue in the drinking water regulations rather than in the other regulations.

The current schedule is to issue a draft Framework document in April 2019 for review by the PRC, then hold a third and final Public Workshop in May 2019. The final Framework document is scheduled to be complete by June 2019.

The group also identified the need for public education and outreach in order to present a clear and consistent message on the recommendations of the Framework report and to present proposed legislation to elected officials. A public education consultant was selected in late 2018 and details of a contract are being finalized.

Work will continue on developing legislation through the remainder of 2019. The public education effort will be initiated and continue through the year.

This has been a key initiative of the Utility Council and is expected to remain so. Many members have been attending and directly participating in PRC meetings and workshops, and we have had numerous subcommittee calls and time allotted at Utility Council meetings to vet issues and to provide direct commentary and feedback to our PRC delegates, Ms. Jackson and Mr. Steinbrecher. A number of our utility members are directly contributing specialized technical, policy and public messaging expertise as the process evolves.





BIOSOLIDS MANAGEMENT

Kevin Carter, Broward County Water &
Wastewater Services

In the 2018 Annual Report, outgoing President Lisa Wilson-Davis thoughtfully looked back at the UC's historical efforts since 1999. She reported a Utility Council's biosolids workgroup convened first in 2002 and again in 2010 to communicate utilities' interests at the state level. In 2018-19, it was 'back to the future' for the Utility Council as biosolids returned to the regulatory and legislative forefront.

Some major 2018 events and activities ramped up statewide biosolids dialogue including:

- In May, the Treasure Coast Regional Planning Council hosted a 'Regional Biosolids Symposium' to primarily discuss ways to enhance biosolids management.
- During that meeting, the FDEP announced a new Biosolids Technical Advisory Committee ("TAC") would "evaluate current management practices and explore opportunities to better protect Florida's water resources."
- In June, some stakeholders attributed an east central Florida lake (Blue Cypress Lake) algae bloom to class B biosolids application.
- Due to the lake's condition, the Indian River County Board of County Commissioners enacted a countywide, six month class B biosolids application moratorium.

Fortunately, FDEP selected a Utility Council representative, Michael Hudkins (Orange County Utilities), as one of the seven member TAC which included academic, industry, environmental, and agricultural stakeholders. The Utility Council sincerely thanks Michael for his outstanding service and time representing us on the TAC. Michael provided thoughtful and significant commentary during the TAC's process from September 2018 until January 2019. Among many good comments, Michael educated the TAC about the need to comprehensively view a utility's operations when making management decisions. He also discussed the many challenges and potential opportunities for new technologies. He further carried the Utility Council message well that sound science should dictate the regulatory and management path forward.

A Utility Council biosolids work group number 'III' formed during FDEP's TAC process. We met periodically via teleconference to review the TAC meetings with Michael, discuss major issues, and prepare UC recommendations. The Utility Council thanks all contributing members as well as FWEA's standing biosolids subcommittee members who added technical expertise. We also thank Adam





BIOSOLIDS MANAGEMENT

Kevin Carter, Broward County Water & Wastewater Services

Blalock (Hopping Green & Sams) and acknowledge his excellent contributions. Adam represented us from the audience at TAC meetings and afterwards provided full Utility Council updates. His in-depth knowledge of current laws and rules greatly assisted discussions about new initiatives. I encourage you to review Adam’s briefings as the biosolids issue evolves in the coming year.

Looking forward, FDEP recently published a biosolids rulemaking notice to amend Florida Administrative Code 62-640. Biosolids legislation currently moving in the 2019 State Legislature includes, among other provisions, language for FDEP to implement the TAC’s recommendations (Senator Mayfield’s Senate Bill 1278 and Representative Grall’s House Bill 405, please see details in this report’s Legislative Update). Thus, we expect FDEP’s rulemaking to closely track the TAC’s recommendations that the Utility Council generally supported.

The TAC recommendations focused on ways for FDEP’s class B biosolids permitting process to minimize nutrient migration to waterbodies and thus reduce water quality impairment. New permitting rules will likely modify biosolids application rate determinations based on site specifics such as soil characteristics, water table, hydrogeology, site use, and distance to surface water. Enhanced inspection, monitoring and research will also likely be addressed. The TAC also recommended FDEP promote innovative technology pilot projects for biosolids processing.

So please stay tuned in the coming year to the biosolids issue. We expect both legislative and regulatory changes to occur. Please contact me anytime for updates or with comments.





LEGISLATIVE UPDATE

David Childs, Hopping Green & Sams

As we near the close of the 2019 Florida Legislative Session, the Florida Legislature remains highly focused on domestic wastewater and septic tank issues, particularly in relation to how permitted wastewater discharges, sanitary sewer overflows, and septic tanks may contribute to surface water quality problems. The Utility Council continues to engage policy makers on behalf of Florida's domestic wastewater utility community. Two bills that have enjoyed Utility Council support include:

- **Blue Star Legislation (CS/CS/HB 105, CS/SB 286).** This legislation establishes in FDEP a voluntary "Blue Star" program for collection system assessment, investment, rehabilitation, & electric power outage mitigation planning. CS/CS/HB 105 passed the Florida House unanimously on March 27th. Its Senate companion, CS/SB 286, is in its final committee stop. The Utility Council supports this legislation.
- **Onsite Treatment & Disposal Systems (CS/SB 1022, HB 973).** This legislation transfers regulatory oversight over onsite treatment and disposal systems (i.e. septic tanks) from the Florida Department of Health ("FDOH") to FDEP. It thereby empowers the same agency responsible for cleaning up our state waters to regulate a contributor of nitrogen loads. The bill also directs FDEP to engage in rulemaking to increase the availability of cost-effective, low maintenance, and reliable nutrient removing onsite sewage treatment and disposal systems in the marketplace. The House and Senate bills are moving through the process and have thus far enjoyed unanimous support. The Utility Council supports this legislation, as does the Florida Chamber of Commerce and the Florida League of Cities. The Florida Onsite Wastewater Association opposes the legislation.

While these two bills have the support of the Utility Council, other bills have raised significant concerns, including:

- **Sanitary Sewer Overflows and Public Notice (CS/HB 141, CS/SB 216).** The legislation requires written, first class mail public notification by wastewater treatment facilities that unlawfully discharge raw or partially treated sewage into any waterway or aquifer within 24 hours of discovering the discharge. The scope of customers to be notified is contingent on the volume of the spill and how far from the discharge the customer lives. The legislation also adds a new \$1 per gallon sewage spilt penalty (regardless of cause), and it allows this penalty to be lessened on a \$2 per gallon spilt in-kind project to remedy the cause of the spill. The House and Senate bills have each been heard in one committee thus far, where they enjoyed unanimous support. The FWEA Utility Council opposes this legislation in its current form as the wrong approach to promote meaningful collection system infrastructure investments and an unnecessary duplication of existing, effective public notice requirements.





LEGISLATIVE UPDATE

David Childs, Hopping Green & Sams

- **Water Quality Improvements (CS/SB 1758, HB 1395).** This legislation imposes numerous domestic wastewater collection system mandates, including advanced wastewater treatment, septic-to-sewer, and collection system infrastructure investments. The Utility Council supports the objectives of the legislation; however, the current form of the legislation could impose significant unfunded mandates and singles out domestic wastewater among other nutrient contributors to the environment. We have engaged with the bill sponsors and proposed changes to the bill intended to alleviate utility concerns.
- **Biosolids Application (CS/HB 405, CS/SB 1278).** This legislation regulates Class B and Class A biosolids management to minimize the migration of nutrients that impair waterbodies and to expedite the implementation of the TAC recommendations and implementation of biosolids processing innovative technologies. The House and Senate bills have been heard by two committees. Notably, a strike-all amendment adopted on HB 405 clarified that the bill did not apply Class AA, as requested by the Utility Council. The amendment, however, added two more provisions that could be problematic. The bill now prohibits biosolids application on any site where the biosolids application zone interacts with the seasonal high water table. The water table issue is already covered in rule 62-640.700(10), F.A.C., where it says that application of biosolids can't take place if the water table is within 2 feet of the biosolids application depth, so it is unclear how this statutory change would impact that existing rule provision. Also, the amended bill requires FDEP to adopt rules establishing site-specific agronomic rates based on soil and plant tissue tests. This language is problematic because it does not specify whether they mean agronomic rate of nitrogen or phosphorous or both. If gets interpreted to mean it has to be based on phosphorus, then this will severely limit biosolids application. The Utility Council supported the TAC process, is closely monitoring this legislation, and working to ensure the bill conforms to the TAC's recommendations.

At this point, it is too early to tell what bills will cross the finish line and which ones will fall short. As is often the case in the Florida Legislature, however, the starting point for next year is often the prior year's unfinished business. Accordingly, Utility Council members will likely not have to wait long for familiar ideas to be considered again in the 2020 Florida Legislative Session, which will begin in January.





SEPTIC TO SEWER

Rick Hutton, Gainesville Regional Utilities &
Terri Lowery, Jones Edmunds & Associates

There continues to be increasing awareness from the public as well as the Governor and Legislature on the impacts of septic tanks on impaired water bodies in many parts of the state. At the request of FDEP, the Utility Council developed a septic to sewer guidance document in 2017 in order to assist in furthering efforts to address septic systems impacts. Since that time, Terri Lowery of Jones Edmunds, primary author of the *Septic To Sewer Guidance Documents*, has presented in various venues including at the Florida Association of Counties 2018 Legislative Conference and a Florida League of Cities educational webinar.

Lack of stable long-term funding continues to be the most significant obstacle in addressing septic systems. While state springs funding can be used to assist with septic to sewer conversions in select springs areas and there have been special appropriations sought for several individual septic to sewer projects, there is currently no funding program in place assist utilities in addressing septic systems in other sensitive areas and costs to implement alternatives continues to increase. In January 2019, Governor DeSantis issued an Executive Order on Water Policy that includes direction to FDEP to establish a septic conversion and remediation grant program with a local government match requirement. There were also bills filed in the 2019 legislative session that included establishment of funding to assist with septic to sewer.

In a related topic, the Utility Council has for many years advocated for regulation of septic systems to be transferred from FDOH to FDEP due to the role septic systems play in environmental impairment of our waterways due to nutrient discharge. To that end, legislation (HB 973 / SB 1022) has been introduced in the 2019 session transferring the Onsite Sewage Program within FDOH to FDEP. The Utility Council recognizes that in order for this transfer to take place staffing, funding, and other logistical issues will need to be resolved.





BOARD OF DIRECTORS

PRESIDENT

Paul Steinbrecher, P.E.
JEA
904-665-5653
steipk@jea.com

VICE PRESIDENT

Rick Hutton, P.E.
Gainesville Regional Utilities
352-393-1218
HUTTONRH@gru.com

PAST PRESIDENT

Lisa Wilson-Davis
City of Boca Raton
561-338-7310
lwilsondavis@myboca.us

SECRETARY/TREASURER

Donald C. Palmer, P.E.
Emerald Coast Utilities
Authority
850-969-6637
donald.palmer@ecua.fl.gov

DIRECTOR AT-LARGE

Sondra W. Lee, P.E.
City of Tallahassee
850-891-6123
sondra.lee@talgov.com

DIRECTOR AT-LARGE

Jo Ann Jackson, PE
City of Altamonte Springs
407-571-8712
JAJackson@Altamonte.org

DIRECTOR AT-LARGE

Jeff Greenwell, P.E.
Hillsborough County Public
Utilities
813-612-7757
GreenwellJ@hillsboroughcounty.org

DIRECTOR AT-LARGE

Kevin Carter
Broward County Water &
Wastewater Services
(954) 856-3879
kcarter@broward.org

DIRECTOR AT-LARGE

Todd Swingle
Toho Water Authority
407-944-5131
tswingle@tohowater.com

DIRECTOR AT-LARGE

Chuck Weber
City of Tampa
(813) 274-8121
Chuck.Weber@tampagov.net





LEGAL COUNSEL & ADMINISTRATOR

LEGAL COUNSEL

David Childs, Esq.
Hopping Green & Sams, P.A.
850-222-7500
DavidC@hgslaw.com

LEGAL COUNSEL

Eric Olsen, Esq.
Hopping Green & Sams, P.A.
850-222-7500
EricO@hgslaw.com

LEGAL COUNSEL

Adam Blalock, Esq.
Hopping Green & Sams, P.A.
850-222-7500
AdamB@hgslaw.com

ADMINISTRATOR

Katherine Ibarra
850-425-3428
ucadmin@fweauc.org





NOTES