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December 22, 2020

Adam Blalock
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Via Email

Subject: Major Objections to Draft Indian River Lagoon Basin, Central Indian River Lagoon Basin Management Action Plan - December 2020 Revision

Mr. Blalock,

Indian River County (IRC) appreciates the opportunity provided by the Florida Department of Environmental Protection (FDEP) to review and provide feedback on FDEP's latest Draft version of the Central Indian River Lagoon (CIRL) Basin Management Action Plan (BMAP), dated December 2020. Please note that our response below is limited to major issues the County has with the current version of the 2020 BMAP.

FDEP released the 203-page document for review only five working days ago, on December 16, 2020. We are concerned that the document will be approved before we have the opportunity to provide a detailed review. On December 16, 2020 FDEP's Sarah Davis sent an email to Eric Charest, IRC Natural Resources Manager, informing him that FDEP is unsure of the Secretary's schedule for recommending the document for approval. In the FDEP/stakeholder teleconference on December 16, 2020 this was also noted and the impression was left that approval may come sooner rather than later due to the holidays. We are also aware that FDEP has stated December 31, 2020 as a goal for the document's approval. Therefore, IRC is concerned that it will not have ample time to review the 203-page document and provide meaningful comments before the Secretary approves it. It is unfortunate that FDEP is moving this document forward at such an unnecessary and unrealistic pace, despite the significant issues involved. As we have previously stated, much longer review time is needed for such a significant policy setting document that creates the potential for tremendous expenditures of taxpayer dollars.

As we have documented many times verbally and in writing to FDEP, specifically in our letters to Ted Saltos, Ph.D, dated June 9, 2020 and August 24, 2020, IRC remains in strong disagreement with FDEP's flawed allocation and reduction data utilizing the SWIL model with respect to IRC's Total Nitrogen (TN) and Total Phosphorus (TP) allocations and reductions towards the Total Maximum Daily Load (TMDL) estimation for the Central Indian River Lagoon. We continue to request that FDEP slow down the CIRL BMAP adoption process so that it accurately portrays realistic and achievable load reduction obligations for the CIRL's stakeholders.

The following are IRC's main objections to the current draft version of the 2020 BMAP. Many of these involve unaddressed comments from our previous review submittals and letters regarding the draft document.

- FDEP has confirmed that the SWIL model was used for purposes that it was not originally designed for nor has it been calibrated for the Indian River County portion of the Central IRL. We have requested FDEP to explain, in the document itself, that the SWIL model needs to be recalibrated which will necessitate adjustments to the allocations assigned to Indian River County along with an indication that the loadings assigned to IRC are subject to change, potentially with a downward revision. It appears that this has not been included in the proposed BMAP
- Agricultural non-point producers should be required to verify on a set reporting schedule (no greater than bi-yearly) through water quality testing or other approved physical methods, that the stormwater leaving their property actually meets discharge standards. To assume that compliance is being achieved through participation (whether regulated or not) in a Best Management Practice (BMP) is unrealistic. Because agriculture is the single largest contributor of TN and TP to the Lagoon, it would seem most appropriate that agricultural entities are held to the same standard of reduction proof as other stakeholders.
- The Marine Resource Council has reported that seagrass in IRC's Lagoon section continues to decline independent of water quality, suggesting something besides TN, TP, chlorophyll-a, and turbidity are driving seagrass health in our region. Has FDEP noticed this also? What happens if nutrient goals are met but seagrass does not recover?
- IRC believes the milestones in Section 1.2.2 of the document are unrealistic. The County has spent millions of dollars attempting to reach the easier to remove inorganic forms of TN and TP, which is rapidly leaving only the much harder organic forms to remove. Short of total flow diversion from the Lagoon, it is unrealistic to believe that the goals will be met. Even nutrients in the diverted water must also be addressed before discharge or the pollution is simply being rerouted. Deep well injection should not be considered a cure-all, because as Orlando's CONSERV project and south Florida's deep well injection of wastewater have shown, it does not stay where it is put.
- FDEP has suggested that if target reduction goals are not met, there will likely be no monetary fines or other penalties. However, this statement provides little comfort to the County. Per section 403.067, Florida Statutes, BMAPs are enforceable per sections 403.121, 403.141 and 403.161, Florida Statutes. These provisions include civil actions, civil penalties and administrative remedies. This is especially problematic as the unrealistic proposed reduction goals and reduction milestones are going to be borne by the County, while other significant contributors, such as the water control districts and agricultural producers, are not going to be responsible for meeting such requirements.

IRC appreciates FDEP's willingness to seek comments on December 2020 BMAP draft document and looks forward to continuing to work with FDEP on the CIRL BMAP, model verifications/calibrations as well as other items that have previously been discussed with the Department under separate submittals. However, we remain strongly opposed to the Indian River Lagoon Basin, Central Indian River Lagoon Basin Management Action Plan moving forward in its current form.

Please contact me at rszpyrka@ircgov.com if you have any questions regarding our main objections to the December 2020 Draft version of the Central Indian River Lagoon (CIRL) Basin Management Action Plan.

Regards,



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Jason E. Brown, County Administrator
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Vincent Burke, P.E., Utilities Director
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Eric Charest, Natural Resources Manager
Ted Saltos, Ph.D., FDEP Environmental Consultant