



Natural Resources Management Department

2725 Judge Fran Jamieson Way
Building A, Room 219
Viera, Florida 32940

BOARD OF COUNTY COMMISSIONERS

TO: Frank B. Abbate, County Manager

THRU: John Denninghoff, P.E., Assistant County Manager

FROM: Virginia Barker, Director, Natural Resources Management Dept. *[Signature]*

SUBJ: Citizen Efficiency and Effectiveness Recommendation (CEER) #2024041

DATE: 04/01/2024

CEER #2024041 was received by the County from Sandra Sullivan.

Citizen Statement:

I could never understand following Irma in 2017 with all the talk of critical infrastructure sewage needs, why the lagoon tax made no mention of AWT infrasture in the lagoon plan as promised taxpayers in Florida Today and in BOCC minutes; and had dedicated 66% to muck dredging.

The problem is the Save Our Lagoon Sales Tax as it has been branded was intended to be a Muck Tax all along as is documented in December 2015 Florida Today story. This sotry documents that it is NOT LEGAL to use the Infrastructure Sales tax for Maintenance Dredging. This bill failed for the second year! and THUS no change has been made to the Infrastructure stae statute that would make it legal use of the Infrastructure Surtax as I read the state statute. Further, BOCC minutes identified that it was not a legal use of the sales tax - and that this tax was for SJRWMD as well as the parties involved including lobbyists for SJRWMD. This is documented in detail in emails to the BOCC. #WeGotMucked

<https://www.floridatoday.com/story/news/local/environment/2015/12/11/legislators-propose-tapping-sales-tax-remove-muck/77108050/>

"Florida republican legislators Thad Altman and Debbie Mayfield will sponsor a bill next year to allow counties to use local-option sales tax money for muck dredging to help clean up the Indian River Lagoon.

"It's not a tax increase," Mayfield, R-Vero Beach, told the Indian River Lagoon Council Friday during their regular monthly meeting. "It's actually a current program that can be used for

infrastructure. We're just going to add 'mucking' (to what the tax can be used for). We think it's important that we're going to have dedicated funding for projects."

Brevard Commissioners (2016) knew that this was maintenance dredging and a ledge based on BOCC violated state law. While the spoil area is considered "capital" infrastructure, MUCK DREDGING is maintenance. See red underlined text.

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Section 189.012(5) specifies further the definition of Infrastructure: So infrastructure can be used to acquire the capital purchase of land for the DMAA site for maintenance dredging (but not the maintenance dredging).

The state statute definition of Maintenance dredging is defined by state statute as well. Maintenance dredging is removing muck; whereas capital dredging (which is also defined) is for deepening or widening a port etc. As an illustration, Turkey Creek has been dredged twice under SOIRL - its right in the plan!

403.813 (5) f

http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&URL=0400-0499/0403/0403.html

"The performance of maintenance dredging of existing manmade canals, channels, intake and discharge structures, and previously dredged portions of natural water bodies within drainage rights-of-way or drainage easements which have been recorded in the public records of the county, when the spoil material is to be removed and placed on a self-contained, upland spoil site which will prevent the escape of the spoil material into the waters of the state, provided that no more dredging is to be performed than is necessary to restore the canals, channels, and intake and discharge structures, and previously dredged portions of natural water bodies, to original design specifications or configurations, provided that the work is conducted in compliance with s. 379.2431(2)(d), provided that no significant impacts occur to previously undisturbed natural areas, and provided that control devices for return flow and best management practices for erosion and sediment control are used to prevent bank erosion and scouring and to prevent turbidity, dredged material, and toxic or deleterious substances from discharging into adjacent waters during maintenance dredging. "

Citizen Recommendation:

The recommendation is to reduce the number of Muck Dredging projects for the remaining 2 years of the Lagoon Plan.

In 2019, the muck tax was decreased from 66% to no more than 30% by BOCC vote. In 2023, with Lober gone, the Muck taxed increased to 36%. With original projects, this muck tax will

increase further. There are projects, i.e. Satellite Beach, added last year (\$8.2 m) which do not start until 2028 after this current tax renews.

The FIT studies document the top 20 muck flux sites which do not include the canals being dredged in. Many of the muck projects of the Lagoon Plan are canals.

A promise was made to follow the science, and the science is provided and we are not following it.

Essentially the taxpayers of Brevard are paying for the richest property owner canal dredging - where seagrass does NOT grow.

The lagoon plan indicated removing muck which impedes seagrass from growing.

Seagrass grows in the IRL not canals, where for the most part lagoon tax is not dredging.

Further, there is a legal requirement of the Infrastructure tax that it is spent on capital projects. The BOCC of 2016 warned that Brevard would be sued for use of this tax for MUCK dredging which is maintenance - so failure to address this problem could be a fiscal cost for Brevard.

Turkey creek has been redredged within 5 years - supporting this is maintenance.

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The additional loss of renewal of this tax would be detrimental cost for Brevard, so following the law is an important consideration for the public support for the renewal of the tax.

The people care about the lagoon. What is not in the lagoon plan is pollution as required by the CCMP (EPA approved NEP plan); and AWT sewage plant upgrades as promised in BOCC meetings and numerous Florida Today articles that helped sell the idea of the Lagoon Tax.

Please adjust the lagoon plan accordingly to be legally compliant.

Staff Analysis:

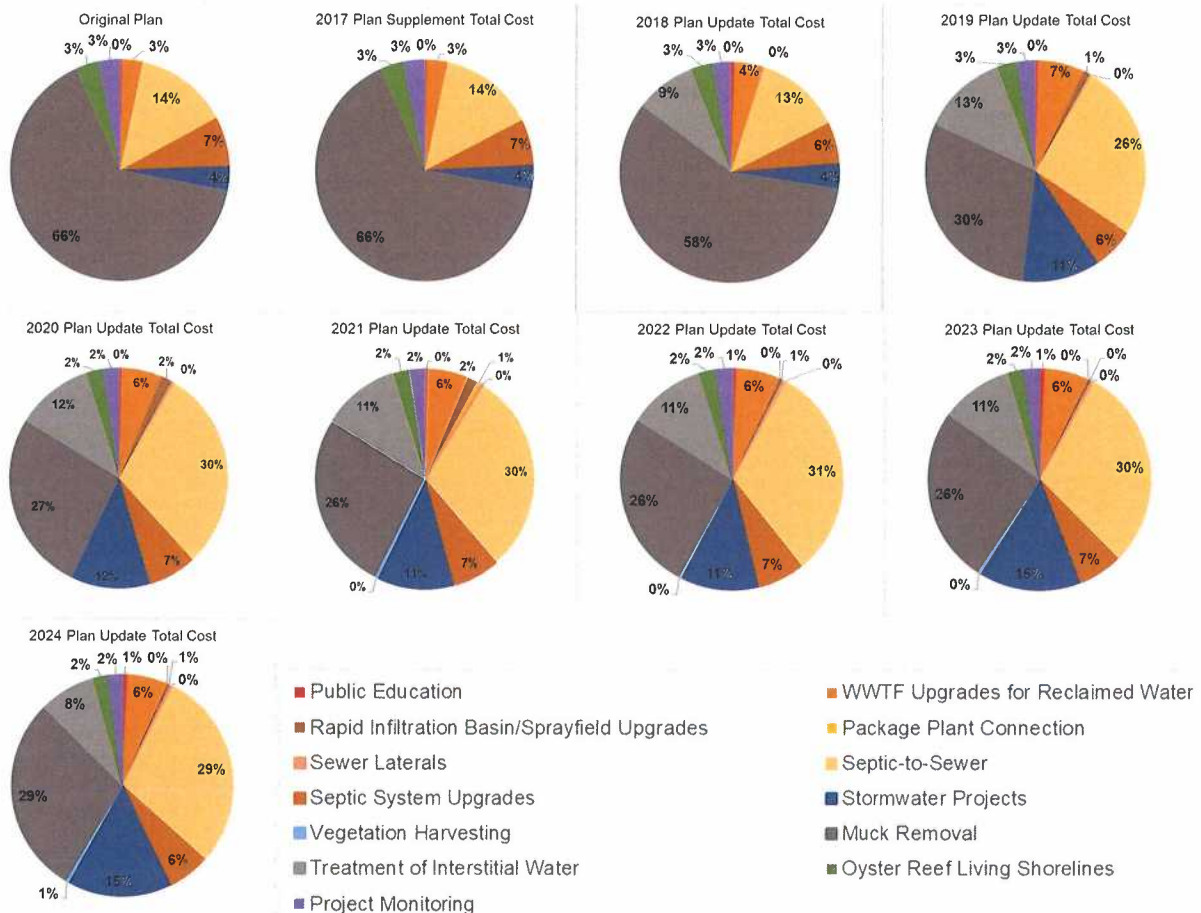
The Citizen Recommendation statement above includes three requests:

1. Reduce the number of muck dredging projects in the Save Our Indian River Lagoon (SOIRL) Project Plan;
 2. Include Advanced Wastewater Treatment upgrades in the SOIRL Project Plan; and
 3. Follow the science.
-
- 1) Muck dredging projects significantly improve water quality, water clarity, dissolved oxygen levels in the water, and the potential for seagrass recovery. Dr. John Trefry calculated nearly a decade ago that without dredging, the amount of excess nutrients being released by decaying muck deposits would continue to feed harmful algal blooms for more than 100 years. To heal the lagoon in time for current generations to enjoy it, sources of pollution must be reduced and existing pollution accumulated in muck deposits must be removed.

The Save Our Indian River Lagoon (SOIRL) Plan is updated annually. The 2024 Update was brought to the County Commission for consideration on February 20th. Figure 1 shows the annual allocation of SOIRL funds by project type, with a large decrease in allocation for muck removal in 2019 and a nearly constant allocation since 2019. The initial plan that was posted for public review prior to the 2016 vote for the tax allocated 66% of the funds for muck removal. The 2019 Plan Update reduced the funding for muck to 43% (30% for removal plus 13% for interstitial treatment of the water that is separated from the muck). The adopted 2023 Plan Update allocates 37% of the funding for muck (26% for muck removal plus 11% for interstitial treatment). The 2024 Plan Update also allocates 37% of the funding for muck (29% for muck removal and 8% for interstitial treatment).

- 2) Upgrading Wastewater Treatment Plants to tertiary treatment levels was included in the initial plan that was posted for public review prior to the 2016 vote for the tax. The 2016 Plan allocated 3% for this purpose. This allocation increased to 7% in the 2019 Plan Update and has been at a constant 6% every year thereafter.
- 3) The SOIRL Project Plan is based on science and the economic principle of return on investment. Cost effectiveness is calculated for every individual project. The performance of different project types is measured in the field and summarized in the annual updates. Actual costs, measured benefits, new scientific data and publications are used each year to update the cost effectiveness calculations. Muck dredging priorities are based on years of field work funded by the Florida Legislature in the Indian River Lagoon. The latest results of Drs. Fox and Trefry were published in December in the journal, *Frontiers in Marine Science*.

Figure 1: Evolution of Funding Allocations for Projects in the SOIRL Project Plan



Staff Recommended Action:

1. Reject the recommendation to reduce the number of muck dredging projects in the Save Our Indian River Lagoon (SOIRL) Project Plan
2. Reject the recommendation to include Advanced Wastewater Treatment upgrades in the SOIRL Project Plan as Wastewater Treatment upgrades are already included; and
3. Continue to follow the science.

Recommendation Details

Contact Information

Full Name:	Sandra I Sullivan	Email Address:	s2sully@gmail.com
Mailing Address:	165 Dorset Lane South Patrick Shores fl 32937	Alt Email Address:	sandra@sandrasullivan.com
		Phone Number	954-224-8624

Group/Organization

WAVEsaction

Recommendation Information

Recommendation Title:	Indian River Lagoon Infrastructure Surtax (SOIRL tax)
Areas Affected:	Lagoon and Sewage Infrastructure

Department:

NATURAL RESOURCES MANAGEMENT

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**Problem
Description:**

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Recommendation Description

Attachments

There are no attachments for this recommendation.

Administrative Action

Evaluation

Recommendation Timeline

User	Status	Date	Remarks
CEER WebUser	Citizen Submitted	Dec 30, 2023	
Karen Conde	Department Assigned	Jan 3, 2024	NATURAL RESOURCES MANAGEMENT Assigned

Awaiting action from department director

2024041 - Links Contained Within Citizen CEER Submission

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