

**PEACE RIVER MANASOTA REGIONAL WATER SUPPLY AUTHORITY
BOARD OF DIRECTORS MEETING
October 1, 2021**

**REGULAR AGENDA
ITEM 4**

Legislative Priorities for 2022

Presenters -

Mike Coates, Executive Director
Laura Donaldson; Manson Bolves Donaldson Varn

Recommended Action -

Motion to adopt Legislative Priorities for 2022.

The proposed legislative priorities for 2022 will be presented to each of the Authority members' respective County Delegation meetings and in Tallahassee during the 2022 Legislative Session.

Budget Action: No action needed

Attachments:

Legislative Priorities for 2022 [Draft]

**Peace River Manasota Regional Water Supply Authority
Legislative Priorities 2022**

Issue	Legislative/ Regulatory	Activity
STATE		
State Water Infrastructure Funding <ul style="list-style-type: none"> • Support State funding for Authority water projects that strengthen resiliency of the regional system. • Support State funding for alternative water supply with priority given to regional projects. • Support funding of State trust funds established in existing statutes. <ul style="list-style-type: none"> ○ Water Protection and Sustainability Program; and ○ West-Central Florida Water Restoration Action Plan. 	Legislative	Submit project applications for State funding. Monitor and participate in legislative process
Monitor legislation that may be proposed resulting from the framework developed by the Florida Potable Reuse Commission.	Legislative	Monitor legislative process
Monitor legislation that may revise aquifer storage and recovery requirements and support any legislation that would benefit the Authority's ASR program.	Legislative	Monitor legislative process
Monitor legislation that sets or requires DEP to adopt rules setting maximum PFAS standards and remediation/liability requirements.	Legislative	Monitor legislative process
Monitor legislation that may implement Blue Green Algae Task Force or Stormwater Technical Advisory Committee recommendations.	Legislative	Monitor legislative process
Support confirmation of Southwest Florida Water Management District Governing Board Member appointments.	Legislative	Support Senate confirmations
Monitor legislation that impacts how the Authority operates, including impacts to independent special districts.	Legislative Committee	Monitor process
Support acquisition by the State and SWFWMD of lands to enhance water management and supply.	Multiple Agencies	Participate in process
Monitor Florida's implementation of Florida's assumption of the Clean Water Act Section 404 Program.	Multiple Agencies	Monitor process

**Peace River Manasota Regional Water Supply Authority
Legislative Priorities 2022**

Issue	Legislative/ Regulatory	Activity
FEDERAL		
Support the continuation of tax-exempt financing and preserve the ability of water systems to use tax-exempt bonds.	Legislative	Monitor
Support the continuation of U.S. EPA as the lead agency for security at drinking water facilities and the explicit prohibition on the disclosure of security program information under federal, state and local information laws.	Legislative and U.S. EPA	Monitor
Support research to impacts of climate change on the viability and sustainability of drinking water supplies.	Legislative and U.S. EPA	Monitor
Monitor the Clean Water Rule: Definition of 'Waters of the United States'.	U.S. EPA	Monitor

STATE ISSUES

'Through cooperation and collaboration, the Authority and its members shall create, maintain and expand a sustainable, interconnected regional water supply system.'

State Water Infrastructure Funding

- Water Projects that Strengthen Resiliency of the Regional System

The Authority has successfully constructed a regional water system providing drinking water to Charlotte, DeSoto and Sarasota counties. The regional water system is based on alternative water supply in a water critical area designated as the Southern Water Use Caution Area ("SWUCA") by the Southwest Florida Water Management District ("SWFWMD"). The key to the water system is storage by utilizing off-stream reservoirs to capture a small percentage of seasonal high flows from the Peace River. This yields a reliable drinking water supply for the region while preserving the freshwater flow needed to support Charlotte Harbor estuary downstream. An additional off-stream reservoir at the Peace River Facility is needed to support regional economic growth and ensure that the needs of existing and future users are met. The expansion of the regional transmission system to create interconnectivity is also a key component in regional water resiliency. The Authority will submit State budget water project funding applications for inclusion in the State budget.

- Alternative Water Supply Funding

The State budget for FY 2021-2022 appropriated \$40 million to establish a water resource development grant program to help communities plan for and implement conservation, reuse, and other water supply and water resource development projects. Priority funding will be given to regional projects in the areas of greatest need and for projects that provide the greatest benefit. The Department of Environmental Protection ("DEP") is to identify and research all viable alternative water supply resources and provide an assessment of funding needs critical to supporting Florida's growing economy.

- FY2021-22 Water Protection Funds – Resilient Florida Grant Program

Grant funding is available from the State through the DEP FY 2021-2022 Water Protection Funds – Resilient Florida Grant Program for projects that will improve infrastructure resiliency. Applications for this program were due August 30, 2021.

- Funding of Trust Funds

State statute currently establishes trust funds through the Water Protection and Sustainability Program (Sections 403.890 and 403.891, Florida Statutes ("F.S.)) and West-Central Florida Water Restoration

Action Plan (Section 373.0363, F.S.) that provide allocation of state funding through the water management districts. The Authority received funding through these trust funds in the past and supports funding for these trust funds in the State budget.

The Authority supports the allocation of State funds for water infrastructure without creating additional bureaucracy by establishing a state water board or council.

Potable Reuse Commission

The Florida Potable Reuse Commission (“PRC”) is a coalition of a diverse group of water resource, industry, agricultural and health professionals. The purpose of the PRC was to create a consensus driven partnership to develop the framework for the implementation of potable reuse in Florida. The PRC published the ‘Framework of the Implementation of Potable Water Reuse in Florida (January 2020). The framework will help advance potable reuse in Florida by augmenting future water supplies and protecting public health. The framework published by the PRC provide information for elected officials and regulatory agencies on statutory and regulatory needs. Recognition of reclaimed water as a source for potable supply and direction to DEP to initiate rulemaking to implement the PRC recommendations became law in 2020 as part of the Clean Waterways Act. In addition, Chapter 2021-168, Laws of Florida, declares that potable reuse is an alternative water supply and that potable reuse projects are eligible for alternative water supply funding. The exclusion of the use of potable reuse water from regional water supply planning is prohibited. It also authorizes DEP to convene and lead one or more technical advisory groups to coordinate the rulemaking and review of rules for potable reuse. DEP and the water management districts are also required, by December 31, 2023, to develop and execute a memorandum of agreement providing for the procedural requirements of a coordinated review of all permits associated with the construction and operation of an indirect potable reuse project. Additional legislation may be proposed during the 2021 Session to further implement the PRC framework as well as any revisions needed arising from DEP rulemaking, which Authority staff will monitor.

Aquifer Storage and Recovery (“ASR”)

The Authority’s ASR system provides an additional 6 billion gallons of storage through its operation of 21 ASR wells, which supplement water supply during the dry season when river withdrawal may be limited. Improvements to the ASR system has the potential to offer considerable cost savings, improve ASR recovery efficiency, and may also provide opportunities to obtain groundwater credits for over-recharging the Floridan Aquifer supporting environmental improvements in SWUCA. Authority staff will monitor legislation to ensure that any proposed legislation does not negatively impact the Authority and will support legislation that may help the Authority achieve desired improvements to its ASR system.

Per- and Polyfluoroalkyl Substances (“PFAS”)

PFAS are a large and complex class of man-made chemicals that have been used in a wide variety of consumer products since the 1940s. These chemicals have been identified as Contaminants of Emerging

Concern, which are chemicals that have been recently detected in the environment that may pose public health or ecological risks. In 2016, the U.S. Environmental Protection Agency (“EPA”) established a lifetime exposure health advisory level of 70 parts per trillion for the combined concentration of perfluorooctanoic acid (“PFOA”) and perfluorooctane sulfonate (“PFOS”) in drinking water. While treatment technology for removing PFAS from water is not well-developed, the more effective methods use technologies that are not conventionally available in existing water treatment plants, so removing these PFAS chemicals from water could require costly investments by local governments and other water suppliers. The U.S. EPA is currently reevaluating its health advisory level for PFAS.

DEP released a Dynamic Plan on July 1, 2020 to provide a coordinated approach to the complex issues associated with PFAS. The Dynamic Plan describes the development of screening and provisional cleanup target levels that are protective of human health and the environmental resources of Florida. It summarizes data and lessons learned from prior and ongoing investigations that will be used to provide for future proactive investigations of potential PFAS contamination of drinking water resources. Future investigations will be based on potential risk of impact and will include a continued coordinated response with the Department of Health to quickly evaluate and address any impacts to drinking water resources.

During the 2020 and 2021 Legislative Sessions, legislation was filed to address this issue but the bills were unsuccessful. Legislation could be filed that requires DEP to adopt rules for statewide maximum contaminant levels in soil, groundwater, and drinking water for per- and polyfluoroalkyl substances, with priority given to the establishment of maximum contaminant levels for. In addition, legislation could be filed that sets an arbitrarily low maximum contaminant level. Authority staff will monitor any proposed PFAS legislation to ensure that the Authority is not negatively impacted.

Blue-Green Algae Task Force and Stormwater Technical Advisory Committee Recommendations

In January of 2019, Governor DeSantis issued Executive Order Number 19-12, which directed the DEP to establish a Blue-Green Algae Task Force charged with expediting progress towards reducing nutrient pollution and the impacts of blue-green algae (cyanobacteria) blooms in the state. The task force’s responsibilities included identifying priority projects for funding and making recommendations for regulatory changes. The five-person task force issued its first consensus document on October 11, 2019 and continue to meet to discuss other issues such as reclaimed water and stormwater.

In 2020, the Florida Legislature passed the Clean Waterways Act, which directed DEP and Florida's water management districts to update stormwater design and operation regulations under Part IV, Chapter 373, F.S., using the latest scientific information. DEP has created the Clean Waterways Act Stormwater TAC to provide a public forum for identifying and constructively outlining recommendations to DEP and water management districts for strengthening the stormwater design and operation regulations implemented under Part IV, Chapter 373, F.S., including updates to the Environmental Resource Permit Applicant’s Handbook. Stormwater-related pollution represents one of the largest potential contributors of nutrients

throughout the state.

Authority staff will monitor any proposed legislation to ensure that the Authority is not negatively impacted.

Confirmation of Southwest Florida Water Management District Governing Board Members

Water Management District Governing Board members are appointed by the Governor, subject to confirmation by the Senate at the next regular session of the Legislature. The Authority supports the confirmation of the Governing Board members.

Local Government Operations

Every year, the Florida Legislature considers and passes laws that impact how the Authority operates, such as revisions to purchasing, contracting, auditing, Florida Sunshine Laws, public records, websites, and noticing requirements. Authority staff will monitor any proposed legislation to ensure that the Authority is not negatively impacted.

Acquisition of Lands to Enhance Water Management and Supply

Public ownership of specific lands can offer benefits to both regional and local drinking water supply, protect existing water supply infrastructure and operations, and provide opportunities for development of future regional water supply projects on the RV Griffin Reserve to meet future public water supply needs of the region. Acquisition of specific lands in the vicinity of the Peace River Facility and RV Griffin Reserve can provide the opportunity for restoration and mitigation for new reservoir construction along with providing other significant public and environmental benefits in the region, including wildlife habitat connectivity, recreational opportunities, and enhanced flood protection.

Florida's Request to Assume Administration of a Clean Water Act Section 404 Program

The Clean Water Act ("CWA") established the Section 404 program, under which the U.S. Army Corps of Engineers ("Corps") may issue permits. On August 20, 2020, the Environmental Protection Agency received from the Governor of Florida, a complete program submission for the state to regulate the permit process within the jurisdiction of the state. Notice was published in the Federal Register on September 16, 2020 and on December 22, 2020, the U.S. Environmental Protection Agency ("EPA") published their approval of Florida's State 404 Program in the Federal Register. DEP began administering the State 404 Program on that date and now processes applications under Section 404 of the CWA within state-assumed waters, with the Corps processing Section 404 applications within retained waters. Based on the recent court decision related to the Waters of the United States ("WOTUS") Rule discussed below, there may be additional revisions to this program as DEP must follow the rules related to WOTUS under the agreement with the Corps.

Tax-Exempt Financing

The Authority urges Congress to preserve the ability of water systems to use tax-exempt bonds to finance water infrastructure projects. This authority to finance essential governmental services on a tax-exempt basis is vital to the efforts of water utilities to continue to provide high quality, safe and reliable supplies of drinking water at a price that is affordable to ratepayers.

As Congress considers comprehensive tax reform, it must keep in mind that any new tax revenue collected from investors by limiting or eliminating tax-exempt municipal bonds would be offset by increased interest costs that would be borne by local water system ratepayers. Limiting or eliminating the exemption would therefore represent a de-facto tax hike on local communities while encumbering public agencies efforts to raise needed capital to address water supply needs.

Drinking Water Security and Treatment Mandates

The Authority recognizes that water utilities protect their critical facilities from acts of terrorism and other hazards. Drinking water utilities first responsibility is to protect public health by providing potable drinking water.

The Authority supports that the U.S. Environmental Protection Agency (“EPA”) should continue to be the lead federal agency for security regulations at drinking water and wastewater facilities. Having more than one federal agency with oversight of water security could not only be inefficient, but would also impair the ability of drinking water systems to properly and efficiently treat their water supplies. It also could result in making simultaneous compliance with multiple standards or guidelines that will be difficult or even impossible to satisfy. If contradictory or duplicative security measures were recommended by different federal agencies, water systems would face difficulties in assuring compliance and could incur substantial costs with no real improvement in security.

Some water security programs include the collection of data from water providers. Given the sensitive nature of water security information, the Authority believes that Congress should continue the explicit prohibition on the disclosure of such information under federal, state, and local public information laws. Likewise, federal, state, and local agencies must take all internal precautions to prevent the inappropriate disclosure of water system information.

Any new federal security requirements should be accompanied by federal funding assistance. Such assistance could be targeted to help utilities update existing vulnerability assessments or implement other physical security without compromising public health. Otherwise, new security requirements will amount to unfunded federal mandates on local governments at a time when water treatment facilities are facing hundreds of billions of dollars in other priority infrastructure projects.

Climate Change

The Authority supports federal action to research and respond to the impacts of global climate change upon the nation's drinking water supplies. The long-term viability and sustainability of the nation's water supply is integral to a viable regional, state, and national economy and therefore a comprehensive, unified, and coordinated federal research program is essential for developing decision support tools, adaptation and mitigation strategies, and for helping local utility managers access better information on the regional impacts of climate change on drinking water quality and quantity. The EPA, the National Oceanic and Atmospheric Administration, and other federal departments and agencies currently conducting climate change research must increase their efforts to develop reliable modeling systems and regional projections of freshwater quality and quantity changes and offer clear guidance on how water utilities may prepare for changing climate conditions over the next several decades.

Climate change legislation must recognize that water resources and infrastructure in much of the United States are significantly threatened by changing hydrological conditions. Therefore, increased assistance and investment are necessary to help water systems adapt to changing climate conditions and deliver uninterrupted water service to rapidly growing service populations.

Waters of the United States

The EPA and the Corps signed the final rule for repealing the 2015 Waters of the United States rule ("WOTUS") on September 12, 2019. The EPA provided notice of a revised WOTUS in April 2020, with the rule streamlining the definition of "waters of the U.S.", providing clear exclusions, and providing additional definitions for terms used in WOTUS. The final rule became final on June 22, 2020. Apart from Colorado, due to a pending lawsuit and stay, WOTUS is being implemented. However, on August 30, 2021, Judge Rosemary Marquez of the U.S. District Court for the District of Arizona ruled that the Trump-era Navigable Waters Protection Rule ("NWPR"), which redefined the waters of the United States protected by the CWA, involved "fundamental, substantive flaws" that were in conflict with the purpose of the CWA. This ruling may alter the Federal 404 wetland dredge-and-fill permit program. The ruling effectively returns the definition of WOTUS to the pre-2015 regulatory regime until the Biden administration EPA issues new rules. The EPA issued a statement only days after the ruling indicating that in light of the Court's opinion, "the agencies have halted implementation of the Navigable Waters Protection Rule and are interpreting 'waters of the United States' consistent with the pre-2015 regulatory regime until further notice." It appears that the EPA now considers both the Trump-era and Obama-era WOTUS rules to be vacated, and intends to enforce the CWA using the 2008 "Rapanos Guidance" issued by the Bush Administration following the Supreme Court's decision in *Rapanos v. United States*, 547 U.S. 715; 126 S.Ct. 2208; 165 L.Ed.2d 159 (2006). In addition, in June 2021, the EPA had announced that it was beginning the lengthy process of undoing the Trump NWPR by restoring the pre-2015 regulatory scheme and that it further intended to formulate a new WOTUS rule.