



Suwannee- St Johns Group

400 NE 13 Ave.
Gainesville, Fl. 32601
January 3, 2009

Re: Amendment of Chapter 40 C-1 F.A.C.

Dear Board Members,

The Suwannee-St Johns Sierra Club with over 2000 members in our 14 county area would like to make comments re: Amendment of Chapter 40C-1 F. A. C. This amendment would create a new Chapter XI establishing the terms and conditions under which the District will agree to amend or release all or part of a conservation easement conveyed to it solely as mitigation or in compliance with the regulatory requirements of the district or another governmental agency.

The Suwannee-St Johns Sierra Club has concerns on two levels. One is the wetland mitigation aspect of this issue and the other is the public lands aspect.

Mitigation of wetland alteration or destruction by purchasing equivalent wetlands or uplands is not endorsed by the Sierra Club. This only results in a net loss of wetlands. The supposed re-creation or enhancement of wetlands to make up for destroyed wetlands works marginally or not at all.

An extensive investigation by the St Petersburg Times in 2005 revealed that thousands of wetland permits have been issued in Florida with no follow-up to see if mitigation was successful.

To quote the article:

“While the government says destroyed wetlands were replaced, the claims are based on creative accounting and questionable science. The result: a program that creates the illusion of environmental protection while doing little to stem the destruction.”

"It's a huge scam," said Steve Brooker, who has spent 15 years reviewing wetlands destruction permits for the U.S. Army Corps of Engineers in Florida. (St. Petersburg Times, May 22, 2005 by Craig Pittman and Matthew Waite)

You may access the whole series at :
<http://www.sptimes.com/2006/webspecials06/wetlands/>.

Now it appears that the Water Management District is considering allowing the easements that were accepted as mitigation for wetland destruction to be released so that those wetlands can be destroyed. This will be allowed by exchanging them for easements on other lands, either upland or wetland when "in the public interest".

The mathematics for this can be simplified to 2 wetlands destroyed with a "replacement" land either a wetland that already existed or not even a wetland at all equals 2 wetlands destroyed. It just doesn't add up to a plus for the environment despite all the fancy names you give to it.

The Sierra Club believes that there may be very rare situations where destruction of wetlands cannot be avoided but that should be only after extensive public review, when no alternative is possible and it is clearly in the public interest. Any mitigation should result in a net increase in wetland resources and benefit the same hydrological basin where the wetland was destroyed.

Unfortunately, though this supposedly is governmental policy it is rarely adhered to.

The other concern of the Suwannee-St Johns group is the exchange of conservation easements for easements on other lands.

Though this rule will only impact conservation easements accepted as mitigation or to satisfy regulatory requirements by the Water Management District, and although it states it does not apply to conservation easements the District has purchased, it could have ramifications and implications for conservation easement policy on all public lands.

It could change the meaning of "Florida Forever" to "Florida Maybe Not Forever".

Conservation Easements have become increasingly popular as a means to protect land from development. They have increased in number astronomically over the past two decades. They allow the fee title holder to remain owning the land, continuing to manage it, while the conservation value is retained or even increased.

The Sierra Club recognizes that on rare occasion public lands must be sold or exchanged in the public interest. An excellent example of this is the recent exchange of property between the City of Gainesville and Paynes Prairie State Preserve.

For decades the waste water from Gainesville Regional Utilities sewage treatment plant, high in nitrogen and other pollutants, has been discharged into Sweetwater Branch Creek which then flows into the Prairie and into Alachua Sink.

In this recent instance, land of as high ecological and monetary value in the Prairie basin will be exchanged by the City of Gainesville, for Paynes Prairie Preserve land so that artificial wetlands can be created that will treat the waste water before it enters the prairie. It has another positive public good in that it will help restore some of the wetlands lost historically by the prairie. This process took a very long time but is an excellent example of how carefully these exchanges must be done.

The Sierra Club has learned that some special interest groups and local governments have objected to the equal monetary and ecological value requirements in the proposed amendment.

One preposterous argument they pose is that conservation easements monetary value cannot be adequately appraised. They also contend that a conservation easement does not grant proprietary rights to the holder of the easement. The WMD response to this is absolutely correct, appraised value of conservation easements has been well established for a very long time on the federal and state level as well as the proprietary rights of conservation easements.

The argument from some local governments is that requiring an exchange for lands of equal monetary and ecological value in the same hydrological basin is unduly “burdensome”. We agree with the WMD when it states that it would be negligent of its’ statutory mandate if it did not require this.

The release of conservation easements that have been donated to the water management as mitigation for wetland destruction should be difficult and done only when it is clearly in the public interest and avoidance is absolutely impossible. By requiring equal exchange in the same basin, the WMD gives motivation for local governments to adhere to this maxim.

In summary, The Suwannee-St Johns Sierra Club believes that avoidance of wetland destruction on conservation easements held by the WMD should be the rule. Any exception to this should only be when it absolutely cannot be avoided, after careful public review, and any exchange of easement lands should be of more or at the least of equal monetary and ecological value and in the same drainage basin.

Yours truly,

Kathy Cantwell, MD
Public Lands Issue Chair
Suwannee-St Johns Sierra Club