

STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION

In re: FINAL ASSESSMENT DETERMINATION
FOR THE VERIFIED LIST OF IMPAIRED
WATERS FOR ONE WATER IN THE OCHLOCKONEE
– ST. MARKS BASIN

OGC No. 24-0453

ORDER

Pursuant to Section 403.067(4), Florida Statutes ("Fla. Stat."), and Chapter 62-303, Florida Administrative Code ("F.A.C."), the Florida Department of Environmental Protection ("department") is finalizing the assessment determination for one waterbody in the Ochlockonee – St. Marks basin.

The identification of impaired waters is a critical component of the department's comprehensive process to scientifically assess Florida's surface waters and restore those waterbodies not meeting their designated uses (e.g., recreation; healthy, well-balanced aquatic ecosystem; fish consumption). To facilitate this process, the department updated the Verified List for all basins through a Statewide Biennial Assessment.

On August 16, 2024, the department initially proposed the following water for inclusion on the Verified List: Lake Overstreet Drain (WBID 689) for *Escherichia coli* (OGC No. 24-0453). The City of Tallahassee (COT) timely requested and was granted an extension of time on this proposed listing, which kept the proposed agency action for this listing from becoming final.

The COT previously provided information to the department calling into

question the verified listing of Lake Overstreet. To address these concerns, the department had agreed to allow the COT time to undertake a targeted monitoring program to collect additional data prior to the determination of impairment. As such, Lake Overstreet Drain was proposed for placement on the Verified List in error and is instead being placed on the Study List in assessment category 4d for the final Biennial Assessment 2022-2024. The COT is to collect and submit the additional data by no later than June 30, 2026, so the department may make an evaluation for the waterbody as part of the Biennial Assessment 2024-2026.

The final assessment determination for Lake Overstreet Drain (WBID 689) is set forth in Exhibit 1, attached hereto and incorporated herein, and titled, 2024 REVISED ASSESSMENT TO THE VERIFIED LIST OF IMPAIRED WATERS.

The changes in this Order are made in accordance with Chapter 62-303, F.A.C., and Section 403.067, Fla. Stat., and will be submitted to EPA with the intent of amending Florida's 303(d) list. This Order revises the previously adopted State lists. TMDLs will be established for waters on the Verified List based on the department's TMDL prioritization schedule and as set forth in Chapter 62-303, F.A.C.

Notice of Rights

The department's proposed agency action shall become final unless a timely petition for administrative hearing is filed under Sections 120.569 and 120.57, Fla. Stat., before the deadline for filing a petition. The procedures for petitioning for a hearing are set forth below.

Persons whose substantial interests are affected by this Order have a right to

petition for an administrative hearing to contest this Order pursuant to Sections 120.569 and 120.57, Fla. Stat. The Petition must contain the information set forth below and must be filed (received) in the department's Office of General Counsel, 3900 Commonwealth Boulevard, MS# 35, Tallahassee, Florida 32399-3000, within 21 days of the date of receipt of this Order, or 21 days of the date of publication of notice of this Order, whichever occurs first. Failure to file a petition within 21 days of the date of publication of notice or receipt of written notice of this Order, whichever occurs first, constitutes a waiver of any rights such person has to an administrative hearing pursuant to Sections 120.569 and 120.57, Fla. Stat. Any subsequent intervention will only be at the approval of the presiding officer upon motion filed pursuant to Rule 28-106.205, F.A.C.

Extensions of Time

The department may, for good cause shown, grant a request for an extension of time for filing a petition. Requests for extension of time must be filed with the department prior to the applicable deadline. Such requests for extensions of time shall contain a certificate that the moving party has consulted with all other parties, if any, concerning the extension and whether any other parties agree to the extension. A timely request for an extension of time shall toll the running of the time period for filing a petition until the request is acted upon.

Contesting A Water Body Or Water Segment Not Listed

A person whose substantial interest has been affected by the department choosing not to include a water segment on the basin Verified Lists must file a petition as directed herein.

Contesting The Listing Of A Water Segment

A person whose substantial interest has been affected by the department's listing of a water segment on the basin Verified List must file a petition as directed herein using OGC number listed for that particular water segment.

Contents of Petition for Hearing

A petition that disputes the material facts on which the department's action is based must contain the following information: (a) the name and address of each agency affected and each agency's file or identification number, if known, including the department's identification number (OGC number) for the water segment and the county in which the subject matter or activity is located; (b) the name, address, any e-mail address, any facsimile number, and telephone number of each petitioner, if the petitioner is not represented by an attorney or a qualified representative; the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding; and an explanation of how the petitioner's substantial interests will be affected by the agency determination; (c) a statement of how and when each petitioner received notice of this Order; (d) a statement of all the material facts disputed by petitioner. If there are none, the petition must so indicate; (e) a concise statement of the ultimate facts alleged, including the specific facts which petitioner contends warrant reversal or modification of this Order; (f) a statement of the specific rules or statutes petitioner contends require reversal or modification of this Order, including an explanation of how the alleged facts relate to the specific rules or statutes; and (g) a statement of the relief sought by petitioner, stating precisely the action petitioner wants the department to take with respect to this Order. A petition that does not dispute the material facts on

which the department's action is based shall state that no such facts are in dispute and otherwise shall contain the same information as set forth above, as required by Rule 28- 106.301, F.A.C.

Because the administrative hearing process is designed to formulate final agency action, the filing of a petition means the department's final action may be different from the position taken by it in this notice. Persons whose substantial interests will be affected by any decision of the department with regard to the subject order have the right to petition to become a party to the proceeding.

Mediation

Mediation is not available.

Judicial Review

This Order is final agency action unless a person who is substantially affected by the department's proposed agency action timely requests a hearing under Sections 120.569 and 120.57, Fla. Stat. A party who is adversely affected by this Order has the right to seek judicial review under Section 120.68, Fla. Stat., by filing a notice of appeal under Rule 9.110, Florida Rules of Appellate Procedure, with the clerk of the department in the Office of the General Counsel, Mail Station 35, 3900 Commonwealth Boulevard, Tallahassee, Florida, 32399-3000, and by filing a copy of the notice of appeal accompanied by the applicable filing fees with the appropriate district court of appeal. The notice of appeal must be filed within thirty days after this Order is filed with the clerk of the department.

DONE AND ORDERED this 4th day of November, 2024, in Tallahassee, Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION



Digitally signed by Shawn
Hamilton
Date: 2024.11.04 14:06:09 -05'00'

Shawn Hamilton
Secretary

FILED ON THIS DATE PURSUANT TO § 120.52,
FLORIDA STATUTES, WITH THE DESIGNATED
DEPARTMENT CLERK, RECEIPT OF WHICH IS
HEREBY ACKNOWLEDGED.

Lea Crandall

Digitally signed by Lea
Crandall
Date: 2024.11.04
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CLERK

November 4, 2024
DATE

EXHIBIT 1

2024 REVISED ASSESSMENT TO THE VERIFIED LIST OF IMPAIRED
WATERS

Northwest Basin - Biennial Assessment 2022-2024 - Amendment to Verified List

Groups: Apalachicola - Chipola, Choctawhatchee - St. Andrew, Ochlockonee - St. Marks, Pensacola, Perdido

OGC Case Number	Group Name	County	WBID	Waterbody Name	Waterbody Type	Waterbody Class ¹	Parameters Assessed Using the Impaired Surface Waters Rule (IWR)	Criterion Concentration or Threshold Not Met	† Previous Summary Assessment Category ²	† Current Assessment Category ³	† Integrated Report Category Summary Assessment	Summary Assessment Status	Planning Period Assessment Data ⁴	Verified Period Assessment Data ⁴	Comments
24-0453	Ochlockonee - St. Marks	Leon	689	Lake Overstreet Drain	Stream	3F	Escherichia coli	≤ 410 Counts / 100 mL	3c	4d	4d	Study List	3/16	8/39	This waterbody is impaired for this parameter based on the number of exceedances for the sample size and is being added to the Study List because a source tracking study is needed to evaluate the source of the impairment. The department is requesting EPA add this parameter to the 303(d) List.

¹ Florida's waterbody classifications are defined as:

- 1 - Potable water supplies
- 2 - Shellfish propagation or harvesting
- 3F - Fish consumption; recreation, propagation, and maintenance of a healthy, well-balanced population of fish and wildlife in fresh water
- 3M - Fish consumption; recreation, propagation, and maintenance of a healthy, well-balanced population of fish and wildlife in marine water
- 3F or 3M - Limited - Fish consumption; recreation or limited recreation; and/or propagation and maintenance of a limited population of fish and wildlife
- 4 - Agricultural water supplies
- 5 - Navigation, utility, and industrial use

² The previous summary assessment is based on the most recent Biennial Assessment 2020-2022.

³ The current assessment includes data from the Planning Period (January 1, 2012 through December 31, 2021) and the Verified Period (January 1, 2017 through June 30, 2024).

† EPA's Integrated Report Category:

- 1 - Attains all designated uses.
- 2 - Attains some designated uses and insufficient or no information or data are present to determine if remaining uses are attained.
- 2b - Attains one or more designated uses and a Reasonable Assurance Plan has already been completed.
- 2e - Attains one or more designated uses and an Alternative Restoration Plan has already been completed.
- 2t - Attains one or more designated uses and a Total Maximum Daily Load (TMDL) has already been completed. The waterbody meets applicable water quality standards for the parameter; however, this assessment category does not imply attainment of required TMDL load reductions or applicable BMAP restoration goals.
- 3a - No data and information are present to determine if any designated use is attained.
- 3b - Some data and information are present but not enough to determine if any designated use is attained.
- 3c - Enough data and information are present to determine that one or more designated uses may not be attained according to the Planning List methodology.
- 4a - Impaired for one or more designated uses but does not require TMDL development because a TMDL has already been completed.
- 4b - Impaired for one or more designated uses but does not require TMDL development because the water will attain water quality standards due to existing or proposed measures.
- 4c - Impaired for one or more criteria or designated uses but does not require TMDL development because impairment is not caused by a pollutant.
- 4d - Waterbody indicates nonattainment of water quality standards, but the Department does not have enough information to determine a causative pollutant; or current data show a potentially adverse trend in nutrients or nutrient response variables; or there are exceedances of stream nutrient thresholds, but the Department does not have enough information to fully assess nonattainment of the stream nutrient standard.
- 4e - Waterbody indicates nonattainment of water quality standards and pollution control mechanisms or restoration activities are in progress or planned to address nonattainment of water quality standards, but the Department does not have enough information to fully evaluate whether proposed pollution mechanisms will result in attainment of water quality standards.
- 5 - Water quality standards are not attained and a TMDL is required.

⁴ Where data are presented as x/y, x represents the number of exceedances and y represents the total number of samples.

Where Biology data are presented as SCI (n=y), y represents the total number of samples; WBID Mean is the average value of all temporally independent biological health assessment scores over the assessment period; Mean 1 is the first temporally independent average of all biological health assessments within the most recent consecutive three month period; Mean 2 is the second temporally independent average of all biological health assessments within the most recent consecutive three month period prior to the most recent biological health assessment; * Indicates a LVS or RPS result that is averaged based on temporal dependency.

[^]Beach advisories are based on FL Dept of Health Enterococcus criterion of >70 CFU/100mL. Beach advisory data are provided by the Florida Department of Health 2023 Beach Advisories. Beach advisories, warnings, and closures based on red tides, rip tides, dangerous aquatic life, hurricanes, or short-term releases of pollutants, such as sewage spills, sewer line breaks, and medical wastes, are not included when assessing primary contact and recreation use support.

Fish advisory data are provided by the Florida Department of Health 2021

Turbidity natural background conditions are based on data prior to 2010 using the 25th percentile.

Abbreviations: WBID - Waterbody Identification; NA - Not Applicable, does not apply, or was not assessed in the previous cycle (i.e. it's a new WBID, waterbody type change, etc.);

AAM - Annual Arithmetic Mean; AGM - Annual Geometric Mean; ENR - Estuary Nutrient Region; LTA - Long Term Average; LTAAM - Long Term Annual Arithmetic Mean; LTAGM - Long Term Annual Geometric Mean;

LVS - Linear Vegetation Survey; PCT - Percent; RPS - Rapid Periphyton Survey; SSAC - Site Specific Alternative Criteria; TPY - Tons Per Year; WQBEL - Water Quality Based Effluent Limit.

The Northwest Basin Amendment Study List is based on IWR Run 66 and the Impaired Waters Rule (IWR), Chapter 62-303, Florida Administrative Code, with the effective date of 10/17/2016.