

STATE OF FLORIDA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

In re: FINAL ASSESSMENT DETERMINATION  
FOR THE VERIFIED LIST OF IMPAIRED WATERS  
FOR ONE WATER IN THE GROUP 1 BASINS

OGC No.: 19-0570

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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 Group 1 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, a healthy, well-balanced aquatic ecosystem). To facilitate this process, the department has divided the surface waters of the State into five basin groups, with one group being assessed each year.

This Order is finalizing the assessment determination for one water in the Group 1 Ochlockonee – St. Marks basin.<sup>1</sup> On October 2, 2019, the department initially proposed the following water for inclusion on the Verified List: Central Drainage Ditch (WBID 857) for *Escherichia coli* (OGC No.: 19-0570). The City of

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<sup>1</sup> The department initially adopted the Group 1 Verified List in August, 2002. The Group 1 Verified List was subsequently amended in January 2007, May 2009, January 2010, February 2013, January 2014, April 2016, October 2016 and October 2019.

Tallahassee (COT) timely requested and was granted an extension of time on this proposed listing, which kept the agency action from becoming final.

During this time, the COT was able to demonstrate the monitoring locations in the Central Drainage Ditch have been authorized to become part of its permitted stormwater management system in accordance with Section 373.4142, Florida Statutes (F.S.). State water quality standards do not apply within a stormwater management system meeting the requirements of Section 373.4142, F.S. As a result, the department will not be adding the Central Drainage Ditch to the Verified List for *Escherichia coli*. This waterbody will be considered for addition to the Verified List if the COT fails to meet its current permit obligations so that the Central Drainage Ditch does not become part of the City's stormwater management system.

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 rightsuch 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 1<sup>st</sup> day of February, 2021, in Tallahassee, Florida.

STATE OF FLORIDA DEPARTMENT  
OF ENVIRONMENTAL PROTECTION



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Noah Valenstein  
Secretary

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



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CLERK

February 1, 2021  
DATE

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