

WETLANDS



Wetlands and You

One hundred years ago, we thought wetlands were worthless – even a threat to public health. Florida began a major effort to rid the state of acres upon acres of wetlands. Today, we know that wetlands are important to the quality of life in Florida. Wetlands provide wildlife habitats, ground water recharge areas, filtering systems for surface and ground water,

and biological diversity. Federal, state, and local governments now protect the same wetlands that were once slated for destruction.

Laws on Wetlands

Federal and state governments have adopted comprehensive regulatory programs to protect the state's remaining wetlands. Many local governments have also adopted ordinances to protect wetland resources. In order to better coordinate with each other, the U.S. Army Corps of Engineers, the Florida Department of Environmental Protection ("DEP"), and the water management districts entered into an operating agreement concerning regulatory programs for activities in wetlands and other surface waters. This agreement is available at

http://www.dep.state.fl.us/water/wetlands/docs/erp/USCOE_DEP_WMD_OpAgree.pdf.

Federal Regulations: Under the federal Clean Water Act, the U.S. Army Corps of Engineers ("Corps") has authority to grant or deny permits for projects in most wetland areas in Florida. Their jurisdiction extends from coastal or marine wetlands, such as mangroves or salt marshes, to fresh water wetlands such as sawgrass meadows, like the Everglades, and cypress swamps found in North Florida. The Corps bases its decision to issue or deny a wetland permit on several issues concerning the public interest. These issues include the potential impacts on water quality, wildlife, and other natural resources, and whether there are other non-wetland alternate sites available for the project. Besides considering input from the Fish and Wildlife Service, the National Marine Fisheries Service, and the U.S. Environmental Protection Agency, the Corps also invites input from interested citizens. Its Jacksonville District Office gives public notice of wetlands permit applications in Florida. To receive these notices free of charge, contact (904) 232-1666 (Brandon.D.Scott@saj02.usace.army.mil).

Florida Department of Environmental Protection (“DEP”): The DEP also requires permits for most activities in wetlands. The DEP has authority over the same wetland areas as the Corps. Before issuing a permit, the DEP must decide whether water quality standards will continue to be met and then consider a variety of factors to decide whether permit issuance would be in the public interest. The decision to issue or deny a wetlands permit is usually published in a local newspaper located closest to the project site.

Water Management Districts: Florida’s five water management districts protect the State’s water resources. Their authority includes conservation of “isolated” wetlands that the DEP does not regulate. Further, the DEP has granted some water management districts the authority to issue permits for non-isolated wetlands. Like the Corps and the DEP, water management districts consider a proposed project’s impact on water quality, wildlife and other natural resources.

Local Governments: Several of Florida’s large, urban counties, such as Dade, Broward, Palm Beach, and Hillsborough have adopted ordinances that protect wetlands within their boundaries. Mangroves are given special protection under state law and many local ordinances.

Buying Wetlands

The best way for federal, state, and local governments to conserve valuable wetland resources is to buy them. These governments have substantial land acquisition programs, many of which specifically target wetland areas of unique or irreplaceable value. Besides the Conservation and Recreation Lands Trust Fund administered by the DEP, many water management districts have wetland acquisition programs that conserve wetland areas which are likely to be critical for future water supply. Taxpayer funded programs in Dade and Broward Counties purchase environmentally sensitive lands, including wetlands. This ensures their conservation for the enjoyment of future generations. Private groups such as the Natural Conservancy and the Trust for Public Lands also help facilitate the purchase of wetland areas.

Public Involvement

The Corps invites public comment on wetland project permit applications and often conducts public hearings near the project site. Public comment is considered by the Corps in its permitting decisions. The DEP also considers public comment in processing wetlands permit applications. Individual citizens who have a substantial interest in a particular project may also request an administrative hearing in which to challenge a DEP wetlands permitting decision. **To receive the procedure for contesting a DEP’s proposed action on a wetlands permit application, call the DEP’s submerged lands and environmental resources section at (850) 245-8474.**

The formal administrative hearing conducted upon such a request is held before an administrative law judge (ALJ). Having an attorney to represent you at an administrative hearing is ideal. Because the public interest is a major factor in making a

decision affecting Florida's remaining wetlands, public participation in the wetlands permitting process is not only authorized, it is given great weight.

Contact Information and Resources

To find out how your community scores with regard to environmental health, check out Environmental Defense Fund's Environmental Scorecard webpage. You input your zip code and it will tell you how your county ranked in terms of a variety of environmental factors including air and water pollution, toxic exposure and an environmental justice report. The link is: <http://www.scorecard.org>.

Office of Submerged Lands and Environmental Resources of the DEP

- Website: <http://www.dep.state.fl.us/water/wetlands/index.htm>
- Northwest District: 850 595 8300
- Southwest District: 813 744 6100
- Northeast District: 904 807 3300
- South District: 239 332 6975
- Southeast District: 561 681 6600
- Central District: 407 894 7555

Wetlands Helpline of the U.S. Environmental Protection Agency

- 1-800-832-7828
- <http://www.epa.gov/owow/wetlands/wetline.html>
- e-mail: wetlands.helpline@epa.gov

Florida Water Management Districts

- Northwest Florida Water Management District - Midway, 850-539-5999
<http://www.state.fl.us/nwfwmd/>
e-mail: webmaster@nwfwmd.state.fl.us
- Suwannee River Water Management District - Live Oak, 386-362-1001 or 1-800-226-1066 (toll free in Florida)
<http://www.srwmd.state.fl.us/>
e-mail: district@srwmd.state.fl.us
- St. Johns River Water Management District - Palatka, 386-329-4500
<http://sjr.state.fl.us/welcome/contactus.html>
- Southwest Florida Water Management District - Brooksville, 352-796-7211 or 1-800-423-1476 (Florida only)
<http://www.swfwmd.state.fl.us/>
e-mail: executive@swfwmd.state.fl.us
- South Florida Water Management District - West Palm Beach, 561-686-8800 or 1-800-432-2045 (Florida only)
<http://www.sfwmd.gov/site/index.php?>

Prepared by the Environmental and Land Use Law Section, Committee on Access to Justice

The Environmental and Land Use Law Section (“ELULS”) is an organization within the Florida Bar. One of the ELULS’s major purposes is to promote increased knowledge and understanding of environmental and land use law. In response to the need for increased legal services to people who are unable to afford legal counsel, the ELULS has created a Committee on Access to Justice to encourage pro bono activities in the areas of environmental and land use law. Right now, the ELULS is sponsoring a variety of activities, including *Legal Assistance through Legal Services, Inc. and the Florida Pro Bono Coordinators Association*, *Public Workshops on Environmental and Land Use Law*, and *Educational Materials for Citizens*.

For more information, visit the Florida Bar at <http://www.flabar.org/>; or contact the Environmental and Land Use Law Section, 651 E. Jefferson Street, Tallahassee, FL 32399-2300, 904/561-5623, <http://www.eluls.org>.

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