



Water Quality Issues: Regulatory and Legislative Update

**PBC Water Resources Task Force
January 18, 2018**

**Christopher Pettit
Policy and Legislation Manager
Palm Beach County Water Utilities Department
cpettit@pbcwater.org**

Federal Issues





WOTUS



Photo by A. Murray
Copyright 2003 Univ. Florida

- A rule to identify the boundaries of federal jurisdiction under the Clean Water Act and exemptions to federal regulation





How did we get here?

- Existing Regulatory Definitions and Court Cases are not a Model of Clarity
- Supreme Court Cases
 - *SWANCC* (2001)
 - *Rapanos* (2006)
- Numerous District and Appellate Court Cases
- Multiple Guidance Documents
- 2003, 2008, 2011
- Additional Regulatory Guidance Letters and Inconsistency in Application

- \$Million ?'s – What test to use and what is a “significant nexus?”





What do we seek to avoid?

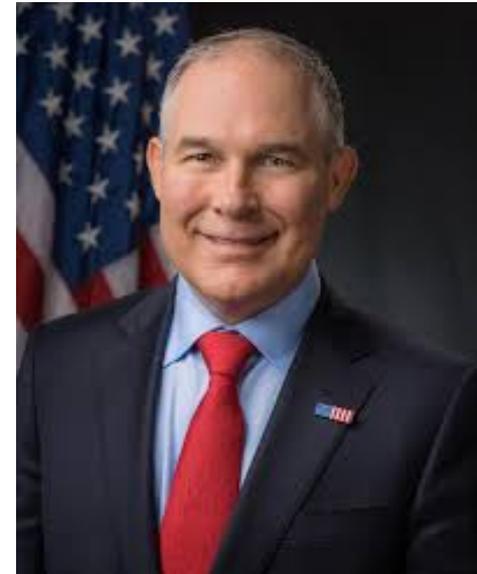


SOLUTION:
Maintain/clarify
existing exemptions
and reaffirm
previously
delegated and
authorized state
programs...





Current Events / Next Steps

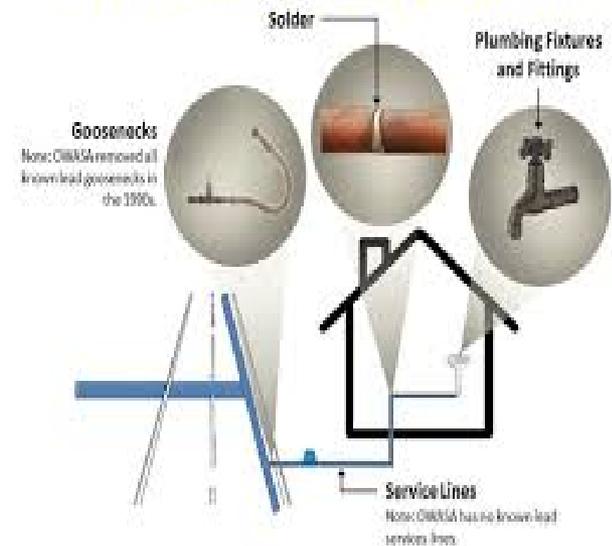


- Rule Published in Federal Register
 - 6/29/15 – Effective Date 8/28/15
 - Rescinding of the Rule by the Trump Administration – 6/27/17
 - Extension of effective date of existing rule - 11/22/17
- Rule Challenges!
 - Question of Jurisdiction (District or Courts of Appeal)
 - Currently at SCOTUS
- “Listening Sessions”
 - September thru November 2017
 - Palm Beach County provided comments

EPA Lead and Copper Rule

- **1991 Regulation to Control Lead and Copper in Drinking Water**
 - 40 CFR 141 Part 1
 - Requires systems to monitor at customer taps
 - If concentrations exceed certain levels in over 10% of samples, corrective action is required
 - Short term revisions in 2004 and 2007
- **Obama and Trump EPAs Considering Long Term Revisions**
 - Federalism Consultation
(<https://www.epa.gov/dwstandardsregulations/lc-r-federalism-consultation>)

Potential Sources of Lead in Drinking Water





State Regulatory and Legislative



Human Health Criteria

- **FDEP Proposed Rule – 6/30/16**
 - HHC based on human exposure to various chemicals in H₂O due to exposure or seafood consumption
- **ERC Adoption – 7/26/16**
- **Rule Challenges**
 - Martin County, Seminole and Miccosukee Tribes, City of Miami, Pulp and Paper
 - Consumption Rates and raising of standards
- **Ongoing Litigation**
 - Same litigants
 - Broward and Martin County looking to intervene



Hurricane Preparedness and Recovery



- House Select Committee
- Final Report
 - Energy Response and Prioritization of Critical Facilities
 - Sanitary Sewer Overflows (SSOs)
 - Mitigation of Flood Events
 - Advance Planning
 - Committee Bills?



SB 244 / HB 837 Domestic Wastewater Collection System Assessment and Maintenance

- **Blue Star Certification**
 - Administered by DEP
 - Focused on Rate of Reinvestment
 - Pre-treatment, mitigation, adaptive management
 - Incentivization
- **Targets SSOs**
- **Integrated Water Management**



HB 1149 / SB 1308

Environmental Regulation

- Clarification of utilization of reclaimed water to create impact offsets
- Development of criteria for integrating impact offset within CUP issuance
- Coordinated permit review
- Recycling
- Dock Permits



SB 370 / HB 1353 Land Acquisition Trust Fund

- \$100 million annually for Florida Forever
- Cannot be used for IT and overhead



SB 1620 Florida Water Infrastructure Needs Task Force

- Recognizes need for large scale infrastructure improvements in water, wastewater, stormwater, restoration
- Task Force will evaluate local, state, national and international financing frameworks
- Report to Legislature and Governor by December 1, 2019



HB 585 / SB 658 Tourism Development Tax

- Expands authorized uses of tourism development taxes to include public facilities to increase tourist-related business including transportation, water, wastewater, stormwater, solid waste, and pedestrian facilities
- Extremely expansive
- Opposed by tourism agencies, restaurant industry, etc.



HB 53 / SB 232 Coral Reefs

- Establishment of the Southeast Florida Coral Reef Ecosystem Conservation Area
- No statutory authorization to DEP for management planning
- Allows for the pursuit of federal funding



SB 1402 / HB 7203 State Assumption of Federal Section 404 Authority

- Provides DEP the authority to assume the federal dredge and fill permitting program in accordance with the requirements of the Clean Water Act
- No changes to state ERP program
 - Additional layer of federal review
- DEP may delegate program in accordance with federal law
- SEE WOTUS



SB 992 C-51 Reservoir Project

- **SB 10 (2017)**
 - EAA Reservoir and C-51 Reservoir
 - Reduction of Lake O discharges
 - Utilization of C-51 Reservoir
- **Corrections**
 - Practicality requirement
 - Reduce harmful discharges to Lake Worth Lagoon
 - SFWMD Operations



Other Issues

- **Budget**
 - Water Projects (Lake Worth Lagoon Initiative, Loxahatchee River Preservation Initiative, Individual Projects)
- **Pre-emption**
- **SFWMD Everglades Restoration and HHD**





Questions?

Christopher Pettit
cpettit@pbcwater.com
561-493-6009

