



Suncoast Group

MEMORANDUM SUBJECT: Restoring the Florida Aquatic Preserve Act

TO: Suncoast Executive Committee

FROM: Tim Hughes, Conservation Chair

Recall in our May meeting, the Stevenson Creek Advocacy Group (SCAG) a non-profit organization, made a presentation about “the aquatic preserve loophole” in Florida Statute 373.414(1)(b)1, FAC 18-20 that allows a developer to make “donations” to bypass the “public interest” and environmental regulations of Florida’s Aquatic Preserve Act under the statute.

Pinellas County is host to 2 of Florida’s 43 aquatic preserves: the very large Pinellas County Aquatic Preserve and the Boca Ciega Aquatic Preserve. Stevenson Creek is a small, shallow estuary located in the Pinellas County Aquatic Preserve.

In the Stevenson Creek case, a “donation” of \$24,300 was made by a developer seeking a permit to install nine commercial docks in the shallow shoals of the Stevenson Creek estuary, an unprecedented permit request for this small, shallow estuary. Against the wishes of SCAG, the \$24,300 donation was made to the Aquatic Preserve Society of Florida, which not only was used to bypass the “public interest regulations” of Florida’s aquatic preserves, but the donation is not intended to be used for any mitigation in Stevenson Creek.

The “public interest loophole” in the statute is now a state-wide issue of concern for all of Florida’s 43 aquatic preserves. The Stevenson Creek case has only heightened the public’s concern that statutory provision 373.414(1)(b)1, FAC 18-20 is being abused, that the “public interest” and environmental regulations that protect Florida’s aquatic preserves are now negotiable. Florida’s “donation mitigation calculations” are determined by a formula known as Uniform Mitigation Assessment Method (UMAM). This is the Florida Department of Environmental Protection’s (FDEP) standardized process for determining the amount of mitigation needed to offset adverse impacts to wetlands and other surface waters. In the Stevenson Creek case, the alleged abuse occurred when the UMAM formula did not factor in that their restored estuary with mangrove oyster beds has become a habitat for manatees, dolphins and a diversity of fish and aquatic birds.

The goal is to “close the public interest loophole” and restore the original intent of Florida’s Aquatic Preserve Act of 1975 as much as possible. SCAG has been working with their local state Rep. Kim Berfield (District 58) and recently SCAG reached out to state Senator Nick DiCiglie of south Pinellas County, who is on the Committee of the Environment and Natural Resources. It’s hoped they task their staff to research the statute and possible legislative fix to “close the loophole”. In this election year, should Bryan Beckman be elected, it’s believed he would be a very strong supporter and bill sponsor.

Accordingly, since this is a state-wide issue, SCAG respectfully requests the following collaboration and support from the Florida Chapter of Sierra Club and Suncoast Sierra Club:

1. **Public support**, including a motion to approve this memorandum and future support on position statements with legislators, agencies, non-profits and the public.
2. **Policy and legal guidance** regarding an effective approach to “closing the donation loophole” and restoring the integrity of Florida's aquatic preserve protections.
3. **Consultation and lobbying with municipal, county and state officials** to assist in developing an effective legislative fix, identify opportunities for bipartisan sponsorship.

Conclusion: Florida's Aquatic Preserves were established to preserve Florida’s exceptional waters for future generations, not to create mechanisms by which environmental protection can be offset through financial contributions. We believe this issue has statewide implications for all 43 Aquatic Preserves and presents an important opportunity to strengthen public confidence in Florida's public interest and environmental laws. The goal is to restore the original intent of Florida’s Aquatic Preserve Act as much as possible with support from local state legislators, state agencies and the public.

Please make a motion to approve this memorandum of understanding.

Sincerely,

Tim Hughes,

Conservation Chair

Suncoast Sierra Club