

How it really isn't fair

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By now, just about every resident of Lee County has heard about how unfair it is that our estuary's waters have received the lion's share of polluted water releases from Lake Okeechobee whenever the lake reaches a certain level. And our estuary is starved of fresh water during droughts.

But until now, there has never been one place where just about all the inequities that lead to this unfair burden are delineated.

Recently, James Evans of the city of Sanibel's Natural Resources Department and Rae Ann Wessel, the Sanibel-Captiva Conservation Foundation's Natural Resources Policy Director, took on the task of delineating those inequities. They did so at the request of Mick Denham, the vice mayor of Sanibel.

Mick gave me a copy of their excellent, but technical, document. Now I am going to summarize the work of these two scientists for you.

Basically, the inequities fall into two categories:

1. "High flows," or what happens when there is a lot of rain, and
2. "Low flows," what happens when there isn't enough rain.

High Flows

What happens during and after high flows is the most dramatic and noticeable to even the untrained eye. Because the Army Corps of Engineers can only send excess Lake water either to the east, to the smaller St. Lucie estuary, or to the west, to our larger Caloosahatchee estuary, we receive up to 70 percent of the unwanted, excess dirty lake water in our lovely, larger estuary.

The South Florida Water Management District (SFWMD), who makes the decisions about how all this water is managed, seems to care about protecting the Lake ecosystem during high flows. They try to protect the aquatic plants in the Lake and the apple snails around the Lake. But mysteriously, the SFWMD does not seem to care too much about the oysters, seagrasses, and fisheries of the estuaries to the west and east.

Also, far more important to the SFWMD than the ecosystems of the estuaries are the interests of agricultural operations, whom we'll call "Ag." Ag *could* be asked by the SFWMD to store their own excess water during high flows, but they aren't. Instead, they're allowed to send their excess water into the publicly funded Water Conservation Areas, filling them up so that they cannot accept the excess Lake water, which is then sent – you guessed it – into the Caloosahatchee and St. Lucie estuaries.

The SFWMD also allows Ag to pump their excess water into canals. When the canals fill up, this water is then pumped back into the Lake, exacerbating the problem of high water in the Lake, which means yet more Lake water is sent into the estuaries.

While it is physically and theoretically possible to send excess water to the south, as Mother Nature did originally, we now have **laws and lawsuits** standing in the way. Why there have been no laws and lawsuits to stop excess water from going east and west, where Mother Nature did not intend for it to go (for the most part), is a question that goes unanswered.

One **law** says that the Everglades National Park can only receive water that contains no more than 10 parts per billion (ppb) of phosphorus. That's great for the Everglades, but the ecosystems of the estuaries also cannot bear high nutrient levels (nitrogen and phosphorus from the Lake are the nutrients that together can limit the production of sea life in the estuary). Yet no law is being applied to protect them.

The Water Conservation Areas were supposed to be used to clean the excess lake water so that it could legally be sent south. But instead, those areas are filled up during high flows by Ag's excess water.

Laws protecting the Lake's endangered snail kite and the glades' Cape Sable Seaside Sparrow are observed, and therefore excess water is not allowed into their habitats; but curiously again, the endangered smalltooth sawfish and its critical habitat in our waters, as well as the West Indian Manatee, are ignored when the SFWMD and the Army Corps make their decisions about where to send water during high flows. The US Fish and Wildlife Service would have to explain why the law is applied to protect some endangered species, but not others.

More water could be sent out through canals to the southeast, but that affects the water tables in the Ag area. Once again, Ag does not take the hit but the estuaries to the east and west do.

Lawsuits have resulted in stopping water flows to the south, into the Miccosukee lands, although Mother Nature originally sent that water south. Sure, the Miccosukees do not like the quality of that water coming out of the lake, but neither do the ecosystems of the estuaries.

Litigation has also kept water from going east into urban areas, where there are lots of people and therefore lots of voters.

Low Flows

Now that we've gone over how our estuaries are mistreated during high flows, let's take a look at the abuse that they endure during low flows, or times when there is not enough rain.

James and Rae Ann stated the problem succinctly when they wrote that the "deep-rooted and entrenched policy of the SFWMD" penalizes natural systems like our estuaries by benefiting water users who get permits, a policy that "sacrifices the public crop (sea grass, oysters, shrimp, fish and crabs) by allocating the public water resources for the benefit of private users, i.e., municipal water supply and agricultural crops."

Wait just a minute here – isn't the whole idea of "permitting" to protect the environment? That's how we think and operate on Sanibel, but evidently that is not the driving motivation of the SFWMD. Instead, their policies and decisions routinely cut off water for natural systems like our estuaries while those who have "permits" suffer no cutback at all. That's right; 100 percent of their demands are met while nature takes all the hits.

That hurts our estuary by increasing salinity levels to the point where freshwater grasses and fish larvae die.

Inexplicably, the SFWMD renews permits and issues *new* permits despite the fact that they know there isn't enough water. This policy was aptly nicknamed by the SFWMD's Governing Board: "no farmer left behind."

There is a policy, called Minimum Flow and Levels (MFL), that is supposed to protect the Caloosahatchee estuary. But it has been violated many times since its inception in 2001. The infrastructure planned to make the MFL more workable is really woefully inadequate, and hasn't been built yet.

Also during times of low flow, instead of allowing the water in the Caloosahatchee to trickle on down its natural path into the estuary, the SFWMD steals the water by shutting the lock at Ortona, and letting our water flow back into the lake instead. Why? To benefit Ag.

Can all of these inequities be resolved by implementing new policies? Yes they can, and James and Rae Ann have explained how. That will be the subject of future articles that I'll present to you, but let me just say this, in closing:

The environment is our economy in southwest Florida. But there is enormous economic inequity exercised by the SFWMD. Taxpayers on the west coast pay the same amount as those elsewhere in south Florida for the management of all this water. Yet the basis for our economy is not only ignored by the SFWMD policies, it is damaged so that the economy of Ag and the urban east coast will suffer no harm.

And that's how it really isn't fair.

If you have comments about this, the Committee of the Islands welcomes your input; email us at coti@coti.org. Past commentaries on this and other island issues are on our web site at: coti.org.