

The Issue with the Draft Listing of Wellington's MS4 as "Verified Impaired"

The Florida Department of Environmental Protection (FDEP) Division of Environmental Assessment and Restoration (DEAR) recently published its first state-wide 2020-2022 Biennial Assessment draft lists ("Verified Impaired," "Study List," and "Delisted"). Review of the lists revealed that three of the listings on the Verified Impaired draft list are for WBIDs (water body identifications) with a water body named "ACME" (North and South sectors). The two WBIDs are comprised of most of the Village's defined municipal separate storm sewer system (MS4), also referred to as its surface water management system (SWMS).

The Village's SWMS is covered by a South Florida Water Management District permit (50- 50-00548-S/Application No.070330-35). Furthermore, the Village has consistently defined and documented its SWMS as its MS4 under the U.S. NPDES MS4 permit program for close to 30 years (since the application stage in the early 1990s).

By sampling, assessing, and now (draft) listing Wellington's MS4/SWMS as impaired, DEAR appears to be taking the position that the MS4/SWMS is actually Waters of the State. As such, Wellington's MS4/SWMS must meet state water quality requirements. Basically, Wellington's water quality treatment system itself must meet the water quality treatment standards it was constructed to provide. This is both illogical and unreasonable.

There have been decades of subsequent regulatory permitting and system operation based on the system being the master SWMS for the Wellington/ACME area. Beside quite possibly being impossible, the logistics of what to do with all the contributing areas and sub-systems that rely on Wellington's SWMS as the master treatment system into which they discharge, will be extremely complicated at best.

On behalf of the Village of Wellington, Mock•Roos and legal counsel are being retained to provide initial assistance in preparing a comment letter to DEAR by the November 10, 2021, deadline. Mock•Roos, as a long-time engineering consultant to Wellington/Acme (since the early 1990s), has considerable information on Wellington's SWMS and its regulatory permits. It is hopeful that a well-crafted letter/document will put us on the path to remove Wellington/ACME from the draft Verified List and from any future DEAR water body assessment efforts.