

LAKE BELT MITIGATION COMMITTEE

ANNUAL REPORT FOR 2001

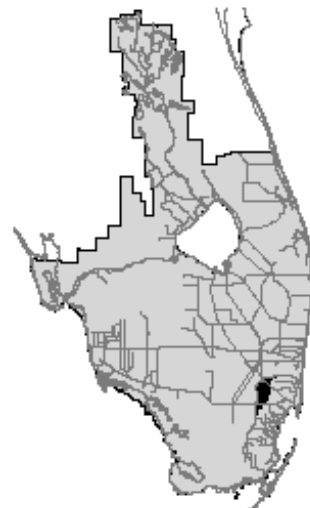
Submitted to the

GOVERNING BOARD

of the

SOUTH FLORIDA WATER MANAGEMENT DISTRICT

In Accordance with Florida Statutes 373.41492(9)(a)



Background

To provide for the mitigation of wetland resources lost to mining activities within the Miami-Dade County Lake Belt Area, the Florida Legislature established a mitigation fee on each ton of limerock and sand sold from the Miami-Dade County Lake Belt Area. The Legislature found that the impact of mining within the rock mining supported and allowable areas of the Miami-Dade County Lake Plan adopted by s. 373.4149(1), F.S. could best be offset by the implementation of a comprehensive mitigation plan, as recommended in the 1998 Progress Report to the Florida Legislature by the Miami-Dade County Lake Belt Plan Implementation Committee. The legislation that authorized the mitigation fee and governs its use is attached as Appendix 1. Additional information on the Miami-Dade County Lake Belt Plan Implementation Committee, including copies of the Plan, Annual Progress Reports and Technical Reports, is available at the web site <http://www.sfwmd.gov/org/pld/proj/lakebelt/index.html>.

The mitigation fee became effective on October 1, 1999 at the initial rate of 5.00 cents for each ton of limerock and sand sold. The fee applies to raw, processed, or manufactured limestone, cement, and concrete products. The mitigation fee is collected by the Florida Department of Revenue and deposited to a trust fund at the South Florida Water Management District (SFWMD). An interagency committee, referred to as the Lake Belt Mitigation Committee, must approve expenditures from the trust fund.

Legislative Guidance for Mitigation

The proceeds of the mitigation fee must be used to conduct mitigation activities that are appropriate to offset the loss of the value and functions of wetlands as a result of mining activities and must be used in a manner consistent with the recommendations contained in the reports submitted to the Legislature by the Miami-Dade County Lake Belt Plan Implementation Committee and adopted under s. 373.4149, F.S. Such mitigation may include the purchase, enhancement, restoration, and management of wetlands and uplands, the purchase of mitigation credit from a permitted mitigation bank, and any structural modifications to the existing drainage system to enhance the hydrology of the Miami-Dade County Lake Belt Area. Funds may also be used to reimburse other funding sources, including the Save Our Rivers Land Acquisition Program and the Internal Improvement Trust Fund, for the purchase of lands that were acquired in areas appropriate for mitigation due to rock mining and to reimburse governmental agencies that exchanged land under s. 373.4149, F.S. for mitigation due to rockmining.

The Lake Belt Phase I Plan, submitted to the legislature on February 1997, states: *"Mitigation for rockmining in the Lake Belt Area should occur within the Pennsuco wetlands, the Northwest Bird Drive Basin, or other areas in the Lake Belt Area or Dade County, including in mitigation banks, as determined appropriate by the permitting agencies."* (page 21, "Northwest Dade County Freshwater Lake Belt Plan, Making a Whole, Not Just Holes", 1997).

Lake Belt Mitigation Committee Representation

The Lake Belt Mitigation Committee consists of representatives from the following: the Miami-Dade County Department of Environmental Resource Management, the Florida Department of Environmental Protection, the South Florida Water Management District, the Florida Fish and Wildlife Conservation Commission, the U. S. Army Corps of Engineers, the U.S. Environmental Protection Agency, and the U.S. Fish and Wildlife Service. In addition, a representative of the limerock mining industry serves as a nonvoting member. At the discretion of the Committee, additional members may be added to represent federal regulatory, environmental, and fish and wildlife agencies.

During 2001, the rock mining industry selected Tom MacVicar as their Committee representative on the death of Paul Larsen. A complete list of the Committee members follows:

Florida Department of Environmental Protection

Janet Llewellyn (Committee Chair)

Howard Hayes, Alternate

Miami-Dade County Department of Environmental Resources Management

Carlos Espinosa

Jean Evoy, Alternate

Florida Fish and Wildlife Conservation Commission

Stephen Lau

South Florida Water Management District

Terrie Bates (Committee Vice Chair)

Bob Howard, Alternate

U.S. Army Corps of Engineers

Bob Barron

U.S. Environmental Protection Agency

Veronica Fasselt

Richard Harvey, Alternate

U.S. Fish and Wildlife Service

Jeff Weller

Linda Ferrell, Alternate

Rock Mining Coalition (nonvoting member)

Tom MacVicar

Jeff Rosenfeld, Alternate

Revenues Received from Mitigation Fee

The legislatively established rate of the mitigation fee was based upon costs estimated by the SFWMD staff for the acquisition, management, and perpetual maintenance of 2.5 acres of land in the Pennsuco wetlands for each acre of land mined. A team of economists calculated the rate of the fee and determined the most appropriate method for annually adjusting the fee.

Beginning January 1, 2001 and each January 1 thereafter, the per-ton mitigation fee will be increased by 2.1 percent, plus a cost growth index specified in the statute. For 2001, the Florida Department of Revenue calculated a mitigation fee of 5.33 cents per ton. A mitigation fee of 5.60 cents per ton was calculated for 2002.

On 12/31/00, the balance (including interest) in the mitigation trust fund was \$2,464,625. During 2001, \$2,006,761 was transferred to the trust fund from the Florida Department of Revenue and \$167,611 was earned as interest. The balance in the trust fund as of Dec. 31, 2001 was \$4,638,997. Table 1 shows the Lake Belt cash receipts.

Mitigation Expenditures

No mining has taken place in any new areas of the Lake Belt that would incur a mitigation obligation. Therefore, through 2001, the Lake Belt Mitigation Committee has not authorized any funds to be expended for mitigation measures to offset the impacts of rock mining.

Permit Status

The focus of many of the committee members in 2001 was on completing the processing of the first set of applications for mining under the Lake Belt Plan. Permits are required from Dade County DERM, the Department of Environmental Protection and the U.S. Army Corps of Engineers. Final agency action on these applications is expected during the first quarter of 2002.

Annual Reports

The legislation requires the interagency committee to prepare and submit to the SFWMD Governing Board a report evaluating the mitigation costs and revenues generated by the mitigation fee. Since no funds have been expended, this annual report is fairly brief. It is anticipated that subsequent annual reports will contain information on new acres mined, costs per acre for mitigation, and the acreage mitigated.

Table 1. Lake Belt Cash Receipts

CALEDAR YEAR	ROCK MINING MITIGATION	INTEREST	TOTAL
2000 *	2,386,463	78,162	2,464,625
2001	2,006,761	167,611	2,174,372
TOTAL	4,393,224	245,773	4,638,997

*Includes fees from mining as of Oct. 1, 1999. Initial receipt from Florida Department of Revenue to the SFWMD was in January 2000.

APPENDIX 1

373.41492, F.S. Miami-Dade County Lake Belt Mitigation Plan; mitigation for mining activities within the Miami-Dade County Lake Belt.—

(1) The Legislature finds that the impact of mining within the rock mining supported and allowable areas of the Miami-Dade County Lake Plan adopted by s. 373.4149(1) can best be offset by the implementation of a comprehensive mitigation plan as recommended in the 1998 Progress Report to the Florida Legislature by the Miami-Dade County Lake Belt Plan Implementation Committee. The Lake Belt Mitigation Plan consists of those provisions contained in subsections (2)-(9). The per-ton mitigation fee assessed on limestone sold from the Miami-Dade County Lake Belt Area and sections 10, 11, 13, 14, Township 52 South, Range 39 East, and sections 24, 25, 35, and 36, Township 53 South, Range 39 East, shall be used for acquiring environmentally sensitive lands and for restoration, maintenance, and other environmental purposes. It is the intent of the Legislature that the per-ton mitigation fee shall not be a revenue source for purposes other than enumerated herein. Further, the Legislature finds that the public benefit of a sustainable supply of limestone construction materials for public and private projects requires a coordinated approach to permitting activities on wetlands within Miami-Dade County in order to provide the certainty necessary to encourage substantial and continued investment in the limestone processing plant and equipment required to efficiently extract the limestone resource. It is the intent of the Legislature that the Lake Belt Mitigation Plan satisfy all local, state, and federal requirements for mining activity within the rock mining supported and allowable areas.

(2) To provide for the mitigation of wetland resources lost to mining activities within the Miami-Dade County Lake Belt Plan, effective October 1, 1999, a mitigation fee is imposed on each ton of limerock and sand extracted by any person who engages in the business of extracting limerock or sand from within the Miami-Dade County Lake Belt Area and sections 10, 11, 13, 14, Township 52 South, Range 39 East, and sections 24, 25, 35, and 36, Township 53 South, Range 39 East. The mitigation fee is at the rate of 5 cents for each ton of limerock and sand sold from within the properties where the fee applies in raw, processed, or manufactured form, including, but not limited to, sized aggregate, asphalt, cement, concrete, and other limerock and concrete products. Any limerock or sand that is used within the mine from which the limerock or sand is extracted is exempt from the fee. The amount of the mitigation fee imposed under this section must be stated separately on the invoice provided to the purchaser of the limerock or sand product from the limerock or sand miner, or its subsidiary or affiliate, for which the mitigation fee applies. The limerock or sand miner, or its subsidiary or affiliate, who sells the limerock or sand product shall collect the mitigation fee and forward the proceeds of the fee to the Department of Revenue on or before the 20th day of the month following the calendar month in which the sale occurs.

(3) The mitigation fee imposed by this section must be reported to the Department of Revenue. Payment of the mitigation fee must be accompanied by a form

prescribed by the Department of Revenue. The proceeds of the fee, less administrative costs, must be transferred by the Department of Revenue to the South Florida Water Management District and deposited into the Lake Belt Mitigation Trust Fund. As used in this section, the term "proceeds of the fee" means all funds collected and received by the Department of Revenue under this section, including interest and penalties on delinquent mitigation fees. The amount deducted for administrative costs may not exceed 3 percent of the total revenues collected under this section and may equal only those administrative costs reasonably attributable to the mitigation fee.

(4)(a) The Department of Revenue shall administer, collect, and enforce the mitigation fee authorized under this section in accordance with the procedures used to administer, collect, and enforce the general sales tax imposed under chapter 212. The provisions of chapter 212 with respect to the authority of the Department of Revenue to audit and make assessments, the keeping of books and records, and the interest and penalties imposed on delinquent fees apply to this section. The fee may not be included in computing estimated taxes under s. 212.11, and the dealer's credit for collecting taxes or fees provided for in s. 212.12 does not apply to the mitigation fee imposed by this section.

(b) In administering this section, the Department of Revenue may employ persons and incur expenses for which funds are appropriated by the Legislature. The Department of Revenue shall adopt rules and prescribe and publish forms necessary to administer this section. The Department of Revenue shall establish audit procedures and may assess delinquent fees.

(5) Beginning January 1, 2001, and each January 1 thereafter, the per-ton mitigation fee shall be increased by 2.1 percentage points, plus a cost growth index. The cost growth index shall be the percentage change in the weighted average of the Employment Cost Index for All Civilian Workers (ecu 100011), issued by the United States Department of Labor for the most recent 12-month period ending on September 30, and the percentage change in the Producer Price Index for All Commodities (WPU 00000000), issued by the United States Department of Labor for the most recent 12-month period ending on September 30, compared to the weighted average of these indices for the previous year. The weighted average shall be calculated as 0.6 times the percentage change in the Employment Cost Index for All Civilian Workers (ecu 100011), plus 0.4 times the percentage change in the Producer Price Index for All Commodities (WPU 00000000). If either index is discontinued, it shall be replaced by its successor index, as identified by the United States Department of Labor.

(6)(a) The proceeds of the mitigation fee must be used to conduct mitigation activities that are appropriate to offset the loss of the value and functions of wetlands as a result of mining activities and must be used in a manner consistent with the recommendations contained in the reports submitted to the Legislature by the Miami-Dade County Lake Belt Plan Implementation Committee and adopted under s. 373.4149. Such mitigation may include the purchase, enhancement, restoration, and management of wetlands and uplands, the purchase of mitigation credit from a permitted mitigation bank, and any structural modifications to the existing drainage system to enhance the hydrology of the Miami-Dade County

Lake Belt Area. Funds may also be used to reimburse other funding sources, including the Save Our Rivers Land Acquisition Program and the Internal Improvement Trust Fund, for the purchase of lands that were acquired in areas appropriate for mitigation due to rock mining and to reimburse governmental agencies that exchanged land under s. 373.4149 for mitigation due to rockmining.

(b) Expenditures must be approved by an interagency committee consisting of representatives from each of the following: the Miami-Dade County Department of Environmental Resource Management, the Department of Environmental Protection, the South Florida Water Management District, and the Fish and Wildlife Conservation Commission. In addition, the limerock mining industry shall select a representative to serve as a nonvoting member of the interagency committee. At the discretion of the committee, additional members may be added to represent federal regulatory, environmental, and fish and wildlife agencies.

(7) Payment of the fee imposed by this section satisfies the mitigation requirements imposed under ss. 373.403-373.439 and any applicable county ordinance for loss of the value and functions from mining of the wetlands identified as rockmining supported and allowable areas of the Miami-Dade County Lake Plan adopted by s. 373.4149(1). In addition, it is the intent of the Legislature that the payment of the mitigation fee imposed by this section satisfy all federal mitigation requirements for the wetlands mined.

(8) If a general permit by the United States Army Corps of Engineers, or an appropriate long-term permit for mining, consistent with the Miami-Dade County Lake Belt Plan, this section, and ss. 373.4149, 373.4415, and 378.4115 is not issued on or before September 30, 2000, the fee imposed by this section is suspended until revived by the Legislature.

(9)(a) The interagency committee established in this section shall annually prepare and submit to the governing board of the South Florida Water Management District a report evaluating the mitigation costs and revenues generated by the mitigation fee.

(b) No sooner than January 31, 2010, and no more frequently than every 10 years thereafter, the interagency committee shall submit to the Legislature a report recommending any needed adjustments to the mitigation fee to ensure that the revenue generated reflects the actual costs of the mitigation.

History.—s. 2, ch. 99-298; s. 23, ch. 2000-197.

373.41495, F.S. Lake Belt Mitigation Trust Fund; bonds.—

(1) The Lake Belt Mitigation Trust Fund is hereby created, to be administered by the South Florida Water Management District. Funds shall be credited to the trust fund as provided in s. 373.41492, to be used for the purposes set forth therein.

(2) The South Florida Water Management District may issue revenue bonds pursuant to s. 373.584, payable from revenues from the Lake Belt Mitigation fee imposed under s. 373.41492.

(3) Net proceeds from the Lake Belt Mitigation fee and any revenue bonds issued under subsection (2) shall be deposited into the trust fund and, together with any interest earned on such moneys, shall be applied to Lake Belt mitigation projects as provided in s. 373.41492.

(4) The Lake Belt Mitigation Trust Fund is a trust fund as described in s. 19(f)(3), Art. III of the State Constitution, and therefore is not subject to termination pursuant to s. 19(f)(2), Art. III of the State Constitution.
History.—ss. 1, 2, 3, 4, ch. 98-260; s. 1, ch. 99-297.