



## Lawsuit: Endangered species (sea turtles, sawfish) harmed by Lake Okeechobee discharges

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Florida's inshore estuaries are vitally important cradles for marine wildlife and plants. Tidal action balanced with rainfall runoff creates habitat utilized by hundreds of species in Charlotte Harbor, the Indian River Lagoon and St. Lucie and Caloosahatchee rivers.

But that fragile balance of fresh to brackish to saltwater is completely thrown out of whack when Lake Okeechobee discharges begin flowing to the St. Lucie and Caloosahatchee rivers. In recent years, the discharges have carried with them much more than just nutrient and silt-laden water.

They have brought toxic cyanobacteria. The result has been severe damage to sea grasses and disruption to the life cycles of scores of marine wildlife, including endangered species such as sawfish and sea turtles.

Monday, three conservation organizations filed a notice of their intent to sue the Trump administration for failing to acknowledge the harms that toxic releases from Lake Okeechobee pose to protected wildlife like sea turtles and smalltooth sawfish.



Red tide fish kill cleanup along the shoreline of Indian River County beaches on Tuesday, Oct. 30, 2018, in Indian River County. (Photo: ERIC HASERT/TCPALM)

The Center for Biological Diversity, Calusa Waterkeeper and Waterkeeper Alliance say the National Marine Fisheries Service and the U.S. Army Corps of Engineers failed to fully consider how the toxic algae and other pollutants from the Corps' lake discharges harm wildlife, especially when they occur at the same time as red tide.

"Toxic algae blooms are already forming on Lake Okeechobee, yet federal regulators refuse to admit that lake discharges harm marine wildlife," stated Jaclyn Lopez, Florida director at the Center for Biological Diversity, in a press release sent out by the organization. "We can't have a repeat of years past when Floridians witnessed piles of dead and dying wildlife, thick, guacamole water and the empty promises from federal regulators. We won't stop until the agencies right this course."

The notice to sue claims the agencies failed to consider harms to wildlife when it developed the Lake Okeechobee Regulation Schedule 2008, also called LORS 08.

The groups filed notice against the agencies over similar violations in December 2018, then filed a lawsuit in June 2019 that's still pending in a South Florida federal court.

The Army Corps and National Marine Fisheries Service recently conducted an informal consultation, in which they concluded LORS is not likely to adversely affect protected smalltooth sawfish; Johnson's seagrass; or loggerhead, green, Kemp's ridley, hawksbill or leatherback sea turtles.

In the 12-year history of LORS, the federal agencies responsible for consulting on harms to protected wildlife never have analyzed whether LORS jeopardizes listed species or adversely modifies their habitat and never have authorized harm to the species.

Critical habitat for loggerhead sea turtles is found in the Caloosahatchee and St. Lucie estuaries; for smalltooth sawfish, throughout the Caloosahatchee estuary; and for Johnson's seagrass, throughout in the Indian River Lagoon.

### **Turtles**

The estuaries are important for green turtles as well as loggerhead turtles, said Zack Jud, director of education and exhibits at Florida Oceanographic Society in Stuart, which is not involved in the lawsuit.

"The Indian River Lagoon is important nursery habitat for green sea turtles from the time when they are young sea turtles to when they are sub-adults, or basically teenagers," Jud

told TCPalm. "Young green turtles are basically herbivores and rely on the seagrass beds for food until they grow older."

Loggerheads are carnivorous, Jud said, and when green sea turtles grow older, they become omnivorous. Both feed on crabs, shrimp and other organisms that live in the seagrass beds in the estuaries.

"If you don't have healthy nurseries, you can't have the turtles," he said.

### **Sawfish**

In 2003, smalltooth sawfish was the first marine fish to be added to the endangered species list. Sawfish are regularly encountered in the Indian River Lagoon, St. Lucie River and Charlotte Harbor.

"We're still not entirely sure what it is sawfish do when they are in the lagoon, but we know this is an important place for them during one part of their life cycle," said Jud. "Anglers catch and release them, divers see them and others have recorded them on side-scan sonar fish-finders."

Adult sawfish have been found in these in-shore waters historically, Jud said. There are old photos going back to the early 1900s showing commercial fishermen with large adult sawfish that got caught in their fishing nets.

"They may come into these waters to mate or to feed or to give birth," Jud said.

"It's hard to believe that the federal agencies could conclude that LORS is unlikely to impact sawfish, sea turtles or their protected habitat despite the resources getting bombed every summer with excessive flows

and starved every dry season for adequate flows often leading to toxic algal blooms,” said John Cassani, Calusa waterkeeper, in the press release.

The Waterkeeper Alliance’s general counsel and advocacy director called their conclusion “plainly wrong” and a “dereliction of duty.”

“It’s extremely disappointing that the National Marine Fisheries Service, which is charged with protecting these endangered marine species, has conducted such a haphazard and flawed review of the enormous impacts of toxic releases of contaminated water from Lake Okeechobee,” Daniel E. Estrin said via press release.