



September 15, 2020

The Honorable Randall P. Henderson, Mayor, City of Fort Myers  
Re: 9-8-20 Fort Myers City Council Workshop on Billy's Creek  
Sent by electronic mail

Mayor Henderson and Members of the Fort Myers City Council:

I am writing to you in response to the City Council's Workshop on Billy's Creek last Tuesday, September 8, organized by City Manager Mr. Kazemi. You may recall that Calusa Waterkeeper has focused on the Billy's Creek bacterial contamination problem since 2017, consistent with our mission to work toward "drinkable, fishable, swimmable" waters as established by our parent organization the Waterkeeper Alliance.

On January 26, 2018, I wrote to you and Lee County Commissioner Pendergrass documenting the public record data on the extreme enterococci contamination in Billy's Creek and asking that the City and County consider developing a plan to clean up the contamination. Your immediate response to my message indicated that you would have Mr. Kazemi look into the matter and report back.

On April 26, 2018 you responded to my message of April 5, 2018 to the Florida Department of Environmental Protection (FDEP) about enterococci levels in Cape Coral and extreme levels in Billy's Creek. The April 5 message generally outlined the lack of appropriate signs to warn residents of the bacterial contamination in the region. You stated in response *"Likewise our city manager and others are aware of this matter and plans are in place and being expanding to execute the long term solution as I understand."*

In another attempt to engage the City on the bacterial contamination problem, I made a presentation to the City Council as part of a regular Council meeting on April 16, 2018. At that council meeting, I summarized much of the same data provided in my January 26 letter to you and urged the Council to begin a plan to clean up Billy's Creek and to post appropriate signage until bacterial levels have declined in compliance with the state's enterococci standards outlined in FAC 62-302.530. After nearly 19 months and no response from the City about the lack of appropriate warning signs, representatives of Calusa Waterkeeper met with Councilman Anderson about this issue on October 3, 2019. Later in 2019, one sign, indicating health risk of water in Billy's Creek, was posted on the downstream side of the bridge abutment at Veronica Shoemaker Boulevard.

More than two years have passed since my initial outreach to the City on this issue and I have yet to receive a message from Mr. Kazemi addressing my concerns about the extreme levels of fecal bacteria contamination in Billy's Creek.

I appreciate Mr. Kazemi's interest in informing the City Council of "facts" about Billy's Creek at the Council Workshop last Tuesday, apparently in response to Calusa Waterkeeper's concerns as our organization was mentioned exclusively and repeatedly by yourself during the various presentations. However, many vital facts, relevant to the concerns of Calusa Waterkeeper and the general public, were conspicuously missing from the presentations by Mr. Kazemi, his staff and the City's contracted consultants.

I have summarized the relevant information lacking as follows:

- None of the public record information on extreme levels of enterococci contamination in Billy's Creek was mentioned during the workshop. The information I refer to was the monthly 18-year period of record on enterococci certified data I provided in my message to you on January 26, 2018 and as part of my presentation to the Council on April 16, 2018.
- None of the bacterial source tracing data from sampling conducted by FDEP in August of 2018 was mentioned or presented in contrast to what the City's staff provided. The FDEP source tracing results indicated human sources from bacterial source markers including DNA, sucralose and acetaminophen. It's my understanding that FDEP has discussed this information with at least one representative of Fort Myers since 2018.
- You incorrectly inferred that Calusa Waterkeeper's concerns were about treated wastewater from the Central WWTP in the context of Billy's Creek bacterial contamination. During the one workshop presentation on low detection levels of fecal coliform bacteria in treated wastewater, you commented that someone should tell Calusa Waterkeeper. We have always been aware that part of the process of treating wastewater involves chemical sanitation meant to reduce or eliminate residual fecal bacteria as required by regulation. As such, we would not ordinarily assume that treated wastewater was a significant source of bacterial contamination in Billy's Creek. Considering the public record information on enterococci contamination I provided to you, Mr. Kazemi and the City Council on multiple occasions in 2018, I can only conclude that the focus of the presentation on treated wastewater and your associated comments, was a thinly veiled attempt at diversion from our primary concern about sources of bacterial contamination from within the City's jurisdiction other than the Central WWTP.
- In the context of water quality, at least one presentation on treated wastewater from both of the City's WWTPs, discharging to the Caloosahatchee River, indicated the effluent was "clean" and in compliance with relevant regulations. Treated wastewater discharged by Ft. Myers to the Caloosahatchee estuary continues to be a very significant source of nitrogen pollution. FDEP's Total Maximum Daily Load (TMDL) assessment in 2009 requires the City to reduce total nitrogen by 23 percent. What was not mentioned during the workshop was that the Caloosahatchee Estuary Basin Management Action Plan, meant to comply with the TMDL requirement to reduce nitrogen loading to the River, was revised in 2020 now requiring for the first time since 2012

that the City monitor total nitrogen levels in the City's treated wastewater so that levels do not exceed three mg/l (milligrams per liter).

- Much of the workshop focused on water quality in Billy's Creek and how the city is in compliance with required monitoring. I would point out that the pollutant load reduction estimates stemming from the Billy's Creek Filter Marsh offered by City staff were from data derived in 2010. Total nitrogen concentrations, as one example, appears to trend up in Billy's Creek downstream of the Filter Marsh between 2010 and 2014 while total nitrogen upstream of the Filter Marsh has been stable for the period of record (Figure 1) and appears to decline after 2010. An increasing trend downstream of the Marsh would seem to indicate the Marsh was not reducing upstream loading. Constituent concentration is a different metric than loading but the two measures would be expected to co-vary to a degree depending on rainfall. However, a more thorough analysis is in order.
- Mr. Kazemi had inferred without specifics that Calusa Waterkeeper was not transparent with their sampling data. All of our regular sampling for enterococci bacteria is posted on our Facebook Page and our website for public viewing [www.calusawaterkeeper.org](http://www.calusawaterkeeper.org). It's not Calusa Waterkeeper's responsibility to make available public record data acquired by state agencies. Please contact the relevant agency for the information you seek. When other Calusa Waterkeeper monitoring projects are complete, we will make the data available on our web site. It is however, a little ironic that having not heard back from Mr. Kazemi in over two years about our concerns on Billy's Creek that he would now claim Calusa Waterkeeper has questionable motivations and is not transparent or properly communicating with the City. To date, the majority of information we have requested of the City, had to come from public record requests.

Calusa Waterkeeper acknowledges the City's past efforts to reduce pollution from the Billy's Creek watershed but the misleading or incomplete information resulting from the September 8 Council Workshop on the Creek was disappointing.

Our overall concern about the Billy's Creek Council Workshop was that many council members likely left the workshop thinking that bacterial contamination and pollution of Billy's Creek is from sources outside the City and that any urban runoff and contamination by fecal bacteria from within the City's jurisdiction is irrelevant to the Creeks bacterial contamination or water quality. This could not be further from the truth as enterococci levels in the Creek remain dangerously high including non-tidally influenced areas of the Creek. Caloosahatchee River enterococci levels are typically much lower than in Billy's Creek and often more than 30 times lower (Figure 2). FDEP's more comprehensive source tracing results indicate human sources are part of the enterococci contamination including non-tidal segments of the Creek and FDEP appropriately considers Billy's Creek and its associated watershed a net contributor to pollution of the Caloosahatchee estuary.

I have updated to 2020 and included here (Figure 3) the public record data for enterococci bacteria in Billy's Creek from what was provided to you, Mr. Kazemi and the Council in 2018.

In the future, I hope the City will be more inclusive and responsive to factors affecting bacterial contamination of Billy's Creek. Calusa Waterkeeper will continue to collaborate with the City on

development of the Billy's Creek Community Action Plan being coordinated by Calusa Waterkeeper to reverse the Creek's bacterial contamination.

Recently, we have discussed the goals and elements of the plan with Councilwoman Watkins-Brown, and Councilmen Anderson and Burson. We hope to continue the discussion with you and the remaining members of the Council and staff in the next several weeks seeking recommendations and insight. We hope to have the plan finished by the end of 2020 as a requirement of a grant from the Southwest Florida Community Foundation to develop the plan in collaboration with the community and local jurisdictions.

I have attached the referenced message of January 26, 2018 and my presentation to the Fort Myers City Council on April 16, 2018. Please let me know if you have questions or comments.

Furthermore, I will be conducting additional isotope tracing and DNA sampling in the coming weeks. Your staff are welcome to join me to sample "side by side" as Councilwoman Watkins-Brown has asked recently. And, our Billy's Creek Community Action Plan coordinator Ms. Nonnel Galaviz-Johnson would be happy to meet with you at your convenience to discuss the plan and further efforts to collaborate.

John Cassani  
Calusa Waterkeeper

CC.

Councilman Kevin Anderson  
Councilwoman Gaile Anthony  
Councilman Fred Burson  
Councilman Johnny W. Streets, Jr.  
Councilwoman Teresa Watkins-Brown  
Councilwoman Terolyn Watson  
Saeed Kazemi, Fort Myers City Manager  
Richard Moulton, Director, Fort Myers Public Works  
Richard Thompson, Stormwater Manager  
Jon Iglehart, FDEP South District Director  
Jennifer Carpenter, FDEP South District, Assistant Director  
Nonnel Galaviz-Johnson, BC-CAP Coordinator  
Ruth Watkins, CWK President  
Jason Pim, CWK Vice President  
Jim Watkins, CWK Treasurer  
Kathy Cookman, CWK Secretary  
KC Schulberg, CWK Executive Director  
Chris and Ed Shinouskis, CWK Rangers  
Terry Nelson, CWK Ranger  
Gene Gibson, CWK Ranger  
Holley Rauen, CWK Ranger  
Neil Wilkinson, CWK BC Planning Team

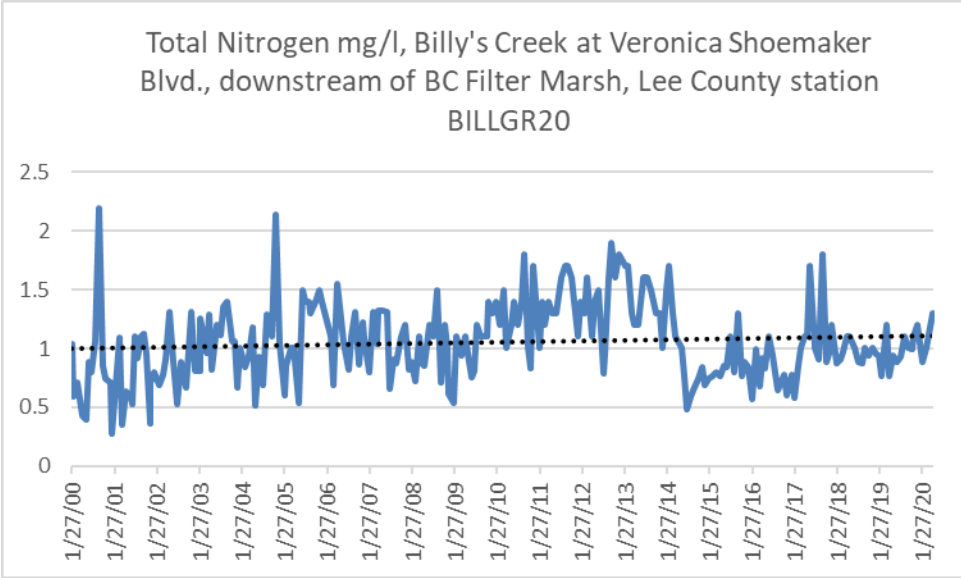
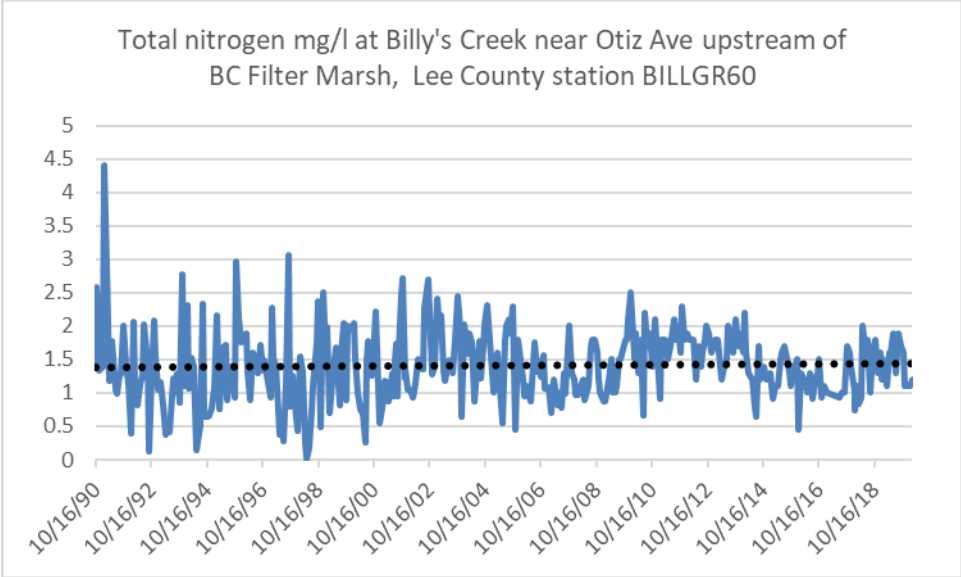


Figure 1. Total nitrogen upstream vs. downstream of Billy's Creek Filter Marsh.

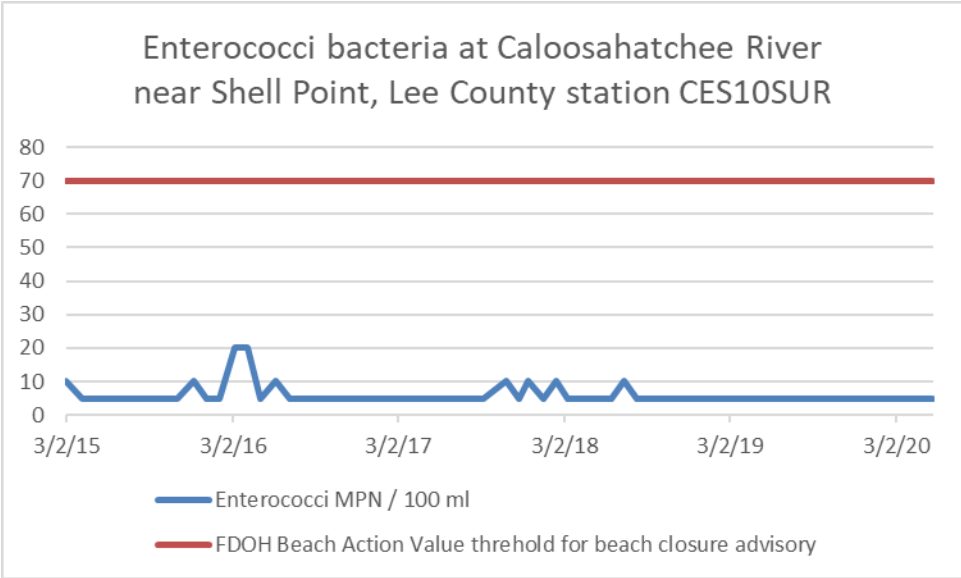
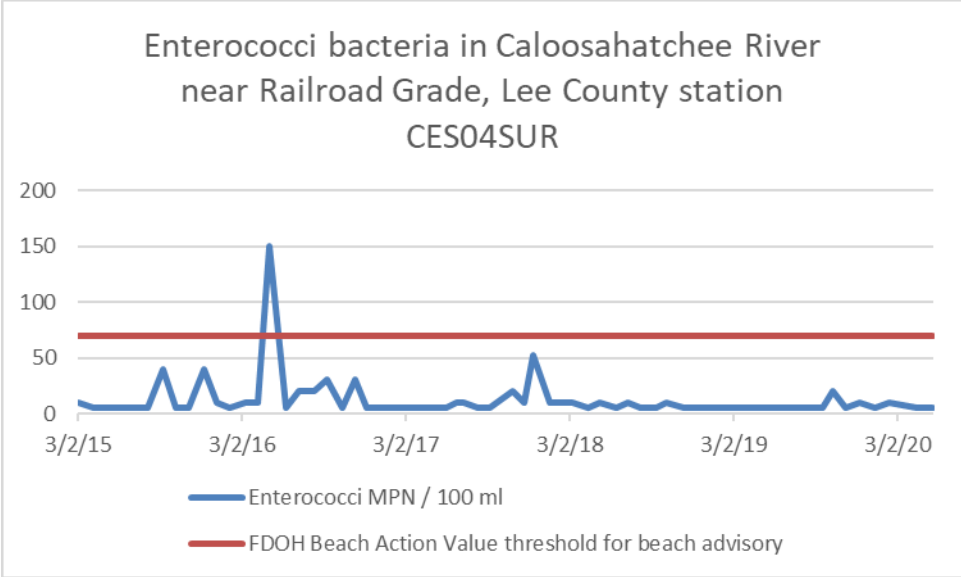


Figure 2. Enterococci levels in the Caloosahatchee River estuary relative to the FDOH Beach Action Threshold of 70 MPN (red line).

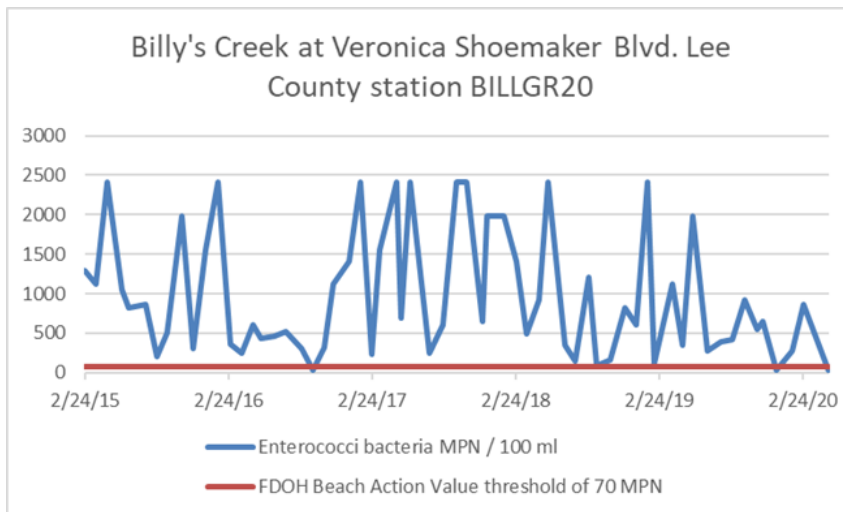
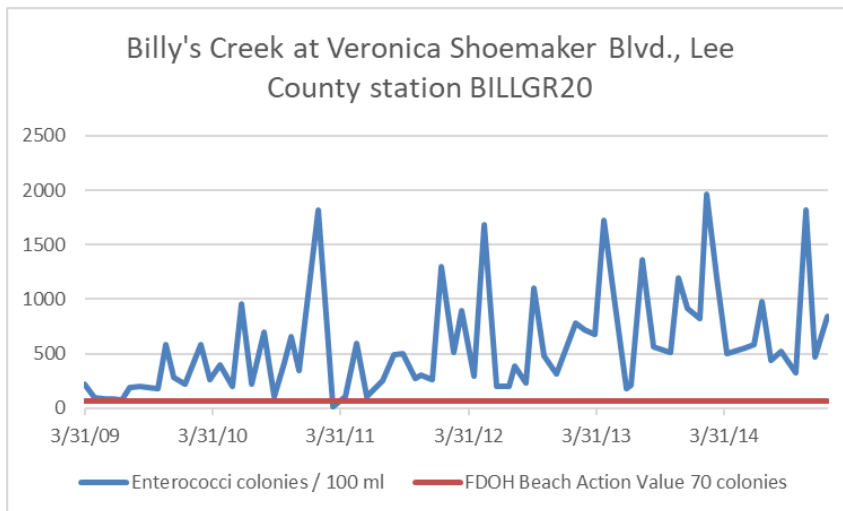
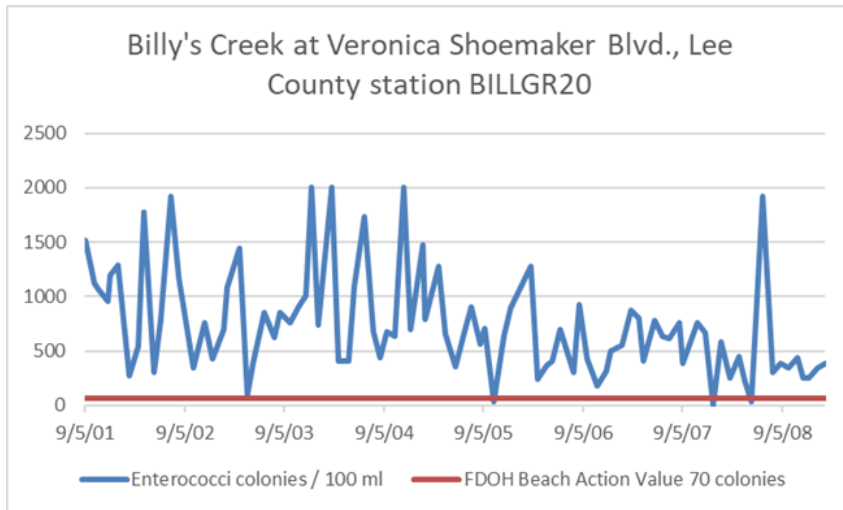


Figure 3. Lee County sampling data for enterococci bacteria at Billy's Creek Lee County station BILLGR20 from 2001-2020. The red line represents the FDOH Beach Action Value threshold of 70 colonies or MPN for beach closure advisories.