



Everglades Coalition

1000 Friends of Florida
Arthur R. Marshall Foundation
Audubon of Florida
Audubon Society of the Everglades
Audubon of Southwest Florida
Caloosahatchee River Citizens
Association
Clean Water Action
Clean Water Network
Collier County Audubon Society
Conservancy of Southwest Florida
Defenders of Wildlife
Ding Darling Wildlife Society
Earthjustice
Environment Florida
The Environmental Coalition
Everglades Coordinating Council
Everglades Foundation
Everglades Law Center
Florida Defenders of the
Environment
Florida Keys Environmental Fund
The Florida Native Plant Society
Florida Oceanographic Society
Florida Sierra Club
Florida Wildlife Federation
Friends of Arthur R. Marshall
Loxahatchee Wildlife Refuge
Friends of the Everglades
Izaak Walton League
Florida Keys Chapter
Florida Division
Izaak Walton League of America
Mangrove Chapter
Last Stand
League of Women
Voters of Florida
Loxahatchee River Coalition
Martin County
Conservation Alliance
National Audubon Society
National Parks
Conservation Association
National Wildlife Federation
National Wildlife Refuge
Association
Natural Resources
Defense Council
The Ocean Conservancy
The Pegasus Foundation
Sanibel-Captiva
Conservation Foundation
Save It Now, Glades!
Sierra Club
Sierra Club Broward Group
Sierra Club Central Florida Group
Sierra Club Loxahatchee Group
Sierra Club Miami Group
South Florida Audubon Society
Tropical Audubon Society
The Urban Environment League
World Wildlife Fund

November 18, 2009

Secretary Michael W. Sole
Florida Department of Environmental Protection
3900 Commonwealth Blvd., MS-10
Tallahassee, FL 32399-3000

RE: PROPOSED DESIGNATED USE CHANGES

Dear Secretary Sole:

The Everglades Coalition is writing to respectfully request that the Florida Department of Environmental Protection not move forward with the changes as proposed, which we collectively believe would produce less protective water quality regulations and potentially undermine restoring sufficient clean freshwater flow for the Everglades. As an alliance of more than fifty local, state and national preservation and environmental organizations dedicated to full restoration of the greater Everglades ecosystem, we would have the following comments and recommendations on how this proposal would adversely impact Everglades' restoration.

Everglades Restoration Depends on Cleansing Its Headwaters

Right now, we aim to make almost all our waterbodies safe for swimming and fishing – with Class III “swimmable/fishable” as their designated use in water quality regulation. Indeed, the Clean Water Act was established to ensure that, where attainable, water quality be safe for citizens to fish and swim in healthy, productive waters. This water quality objective makes sense even for canals, because when canals aren't being used for swimming or fishing, they still flow into natural rivers, bays and beach areas which are used for both. Lowering the designated use and corresponding water quality standards of an upper watershed waterbody such as a canal in Orlando will only make it that much more difficult to reach swimmable/fishable standards in the downstream waterbodies such as the Kissimmee River, Lake Okeechobee, or the Everglades. Financially, lowering water quality standards close to where pollution comes from will thwart efforts to ensure that the private sector be accountable in providing additional source control measures on-site - passing the enormous clean up costs to taxpayers downstream.

The success of Everglades restoration depends not only upon cleaning up the pollution already in the system itself, but preventing additional pollution loads into it from outside areas. This can only be achieved if we maintain the highest water quality standards possible in waterbodies closest to the pollution sources. Creating lower designated use categories could undermine our ability to require additional source controls and leave us with the potential need to fund more stormwater treatment areas – even after all the current CERP and US Sugar purchase water quality projects are complete.

Everglades Restoration Depends on Existing Pollutant Sources Being Adequately Controlled

Currently, waterbodies in the same geographic area generally share the same designated use and thus, are able to be lumped together into subbasins (commonly referred to as “WBIDs”). These WBIDs have been assessed for years according to the water quality standards for their current designated use. Some who have repeatedly not met standards have been deemed impaired and put on the state's 303d list. Furthermore, some of these impaired WBIDs have gone onto having Total Maximum Daily Loads pollutant thresholds developed and in some cases, even gone onto developing a Basin Management Action Plan (BMAP) to meet that TMDL through outlining retrofitting and additional source control measure requirements.

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The proposed designated use changes would substantially impact this process, with each reclassified waterbody having to be removed from its existing WBID and identified as a new separate WBID. With its lower use and standards, it would most likely no longer be considered impaired and therefore, no TMDL or BMAP created. Additionally, the subbasin WBID it used to reside in would be affected, in some cases no longer itself being considered impaired with no TMDL or BMAP implemented as a result. Years of data would have to be resorted and reanalyzed. Pollutant thresholds and clean-up plans underway would in some cases need to be stopped and revisited. This would further delay and distance us from our overall mutual objective, providing sufficient clean freshwater for the Everglades.

Proposed Designated Use Changes Put Additional Burden on Public Interest Groups

Under the current system, it is difficult to initiate re-designation to a less-protective "use" category. However, the proposed changes would shift the burden of proof from showing that swimmable/fishable standards can't be met in order to down-grade protection, to also having to prove that standards can be met in order to upgrade and retain protection. For citizen groups or other entities to stop the downgrading of their local waters on a waterbody by waterbody basis would be more difficult than the current process.

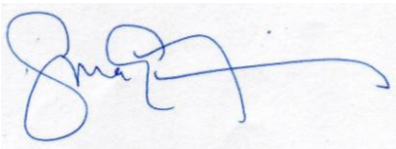
Current Process Provides Necessary Flexibility

The current regulatory process allows a waterbody to deviate from the state quality standards for its designated use if scientifically demonstrated it should – through the establishment of site specific alternative criteria. Pursuing this for waterbodies where exceptional circumstances prevent their attaining their swimmable/fishable designated use would alleviate unnecessary expending of resources for TMDL or BMAP development as appropriate. Additionally, the current regulation also allows a waterbody to change its designated use to another category if demonstrated that it has not, and cannot, attain its current use. Therefore, the current process provides the flexibility to adequately address most exceptional circumstances.

We are also aware of the proposed four new aquatic uses, some of which are more protective than the current swimmable/fishable standards and intended to provide additional water quality protection potentially for springs and coral reefs. We are fully supportive of any effort to better protect our Florida water resources. However, rather than revising our entire designated use and water quality standards structure, eligible waterbodies could receive an additional more protective designation such as "outstanding florida waters". This would allow upgrading of specific waterbodies where justified, without radically changing the fundamental framework for determining impairment, or leaving other types of waterbodies vulnerable to downgrading.

Please support maintaining and meeting Florida's current designated use classifications. Thank you for your time and consideration in this matter.

Sincerely,



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cc: Governor Charlie Crist, State of Florida
Jim Giattina, EPA