



January 17, 2007
Commissioner Tammy Hall
Lee County BOCC
PO Box 398
Fort Myers, FL 33902

Re: Comments on Draft Lake Okeechobee Protection Act

Dear Ms. Hall:

Thank you for taking the time to meet with me yesterday regarding our comments on the draft of the Lake Okeechobee Protection Act. I will be unable to attend the meeting to voice these issues in person so I appreciate the opportunity to bring the background to your attention.

Our concerns with the draft language relate to the water quality references and standards in particular. At present the State is engaged in several interrelated legislative actions that involve changes to water quality standards and conditions including; Total Maximum Daily Loads, (TMDL), the Impaired Waters Rule, (IWR), revised Designated Uses classification and clean water standards, Water Quality Banking and Pollutant Trading.

Throughout the draft document reference is made to water quality standards defaulting to the TMDL. Currently the TMDL standards are not set for the Caloosahatchee and estuary and there is controversy over the proposed TMDL's for the Okeechobee tributaries. In addition, the standards that will be established and agreed upon for other interrelated initiatives is unknown at present. As a result we feel it is inadvisable to default the water quality standards to TMDL's, but instead suggest water quality protections will be stronger if appropriate targets are specified.

The process of setting TMDL targets is the source of the controversy over TMDL's. Some have advocated the interim target method wherein a midrange target is selected arguing it can be achieved more quickly in a phased approach. Unfortunately with this approach the actual end point to provide for sufficiently clean water is not identified so after investing the time and spending money on technology only a fraction of progress is achieved, leaving the true target out of reach.

Instead, we support an alternate approach in which the ultimate targets are identified, disclosing the real endpoint needed so that planning and investment can accommodate the ultimate needs to achieve success. In either case the approaches have to be phased. Land and technology costs will only con-

tinue to rise over time. Planning for the ultimate targets today, saves time, money and provides a clear notice of the outcomes needed in order to be successful. In our view it is better to know the truth of the hill one is committing to climb than to find out the plan falls short of the summit.

An example of the controversy over the setting of TMDL's can be illustrated with the EAA experience wherein a goal of a 25 percent reduction in Phosphorus has been surpassed with a 50 percent reduction yet the water is still too polluted to release to the Lake or Everglades.

Another concern is found in the Findings and Intent section, item 1q which encourages and supports pollutant trading and credits. We strongly advise against these proposed programs as they will effectively establish waivers for TMDL targets and will do nothing toward achieving cleaner water. These programs will allow select entities to avoid the responsibility for cleaning up the contamination they create and the credits they purchase will not provide any assurance of long term improvements for which they are credited.

We encourage and support mandatory Best Management Practices (BMP's) throughout the system for residential (small & large scale), urban & agricultural uses. Solving the water quality problems requires addressing volumes that must be addressed on lands throughout the system both to maintain water levels regionally as well as to abate nutrient loading.

Specifically for the estuaries we would like to see two additional items addressed. First, language that includes nitrogen modeling and loading limits. Despite the fact that the upriver systems are identified for phosphorus loading, they also contribute nitrogen to downstream receiving waters. Second, the need for additional water treatment basins for the Caloosahatchee including Lake Hicpochee, Lake Flirt and filter marsh treatment for the C-43 reservoir.

In summary, we strongly encourage changing language in the draft that defaults water quality to TMDL standards in favor of specific, realistic targets for each basin including the estuaries. To avoid creating loopholes for these water quality objectives and undermining the efforts to achieve clean water quality throughout the system, we request that language supporting any pollutant trading and/or water quality credits be deleted. For the estuaries we request the need for water treatment basins and land acquisition, as needed, to provide those opportunities be specified.

Thank you for your time and consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Rae Ann Wessel". The signature is fluid and cursive, with a large loop at the beginning.

Rae Ann Wessel
Natural Resource Policy Director
Sanibel Captiva Conservation Foundation