



Southwest Florida Regional Planning Council

Serving Charlotte, Collier, Glades, Hendry, Lee and Sarasota Counties

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December 8, 2009

Hon. Michael W. Sole
FDEP Secretary
3900 Commonwealth Boulevard
MS 49
Tallahassee, FL 32399

Dear Secretary Sole:

The Lower West Coast Watershed Subcommittee (LWCWS), which acts as technical advisory committee for the Southwest Regional Planning Council (SWFRPC), will at its next meeting recommend that the Council oppose the Florida Department of Environmental Protection (FDEP) proposal for changes to the Designated Uses and Surface Water Classification System. The LWCWS of the SWFRPC cannot support the draft proposed changes to Florida's Designated Uses and Surface Water Quality Classification System, in their current form, for the following reasons:

One new principle of merit in the proposed designated use rule is the concept of the proposed Aquatic Life (AL) Uses. The proposal is for four categories and includes **AL 1** for the propagation and maintenance of exceptional aquatic communities that approximate the biological structure and function of natural background. We support the creation of a new category to protect exceptional waters such as natural springs, coral reefs, sea grass beds, oyster bars, productive natural soft bottoms, fish spawning grounds, and old growth wetlands like J.N. "Ding" Darling National Wildlife Refuge the Fakahatchee Strand.

The proposed changes are premature since Florida does not have numeric nutrient criteria to support the proposed uses. These criteria are critical for monitoring and enforcement of the water quality standards. If changes are actually needed, any proposed changes should be made after numeric nutrient criteria are established as the basis for creating the designated use categories.

There is no need for a new classification system. The current Designated Uses and Water Quality Classification System already contain mechanisms for addressing unique waterbodies that qualify for additional or less protection. Another alternative would be to consider additional 'supplemental classifications' that would work in tandem with the

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RE: Designated Uses and Surface Water Classification System

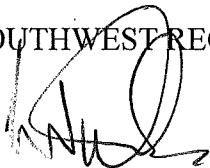
waterbody's existing designated use, as OFW designations currently do. Through these two mechanisms, using existing deviation processes and providing supplemental classifications, Florida can maintain designated uses that promote adequate source control and meet swimmable/fishable standards in accordance with the Clean Water Act, for the enjoyment of all Florida's citizens and its wildlife.

The proposed changes will be costly to state and local governments and will generate significant bureaucratic waste in a time when Florida needs to conserve its financial, human and natural resources. The proposed changes appear to move the strategy for water quality protection and restoration away from source control at the location of the origin of the pollution and place the pollution control burden downstream, requiring the public and local communities to absorb the monitoring and clean up efforts and costs. There are still many unanswered questions regarding situations in which a water body of a lower designated use empties into a receiving water body with a higher designated use. There is no defined implementation plan on how downstream waterbodies will be adequately protected from contributing waters in the upper watersheds designated with lower uses.

Changing the existing designated uses framework will impact progress already made towards Total Maximum Daily Load (TMDL) implementation. State and local governments have already spent significant time and financial resources developing Basin Management Action Plans (BMAPs) and TMDLs for impaired waterbodies throughout Florida. Mid-stream changes to designated use standards could jeopardize local governments' long-term planning efforts and would likely result in delays in implementing BMAPs due to rule challenges or designated use changes from affected parties, incur significant costs at all levels of government, and reduce existing ongoing opportunities to improve water quality for the people and resources of Florida.

Sincerely,

SOUTHWEST REGIONAL PLANNING COUNCIL



Mick Denham
Acting Chair

MD/wg/jwb/je

CC: Mr. Eric Shaw, FDEP in Tallahassee