

PALM BEACH COUNTY  
BOARD OF COUNTY COMMISSIONERS  
AGENDA ITEM SUMMARY

Meeting Date: October 5, 2010

Consent [ ] Regular [X]  
Public Hearing [ ]

Submitted By: Water Utilities Department  
Submitted For: Water Utilities Department

=====

I. EXECUTIVE BRIEF

**Motion and Title:** Staff recommends motion to approve: the distribution of information in Palm Beach County Water Utility (WUD) bills to inform its customers of the new federal Numeric Nutrient Criteria rule proposed by the Environmental Protection Agency (EPA) and the potential rate impact.

**Summary:** On January 14, 2009 a federal judge ruled that new or revised water quality standards in the form of numeric nutrient water quality criteria were necessary to meet the requirements of the Clean Water Act in the State of Florida. The Department of Justice and EPA subsequently entered into a consent decree that required EPA to adopt numeric nutrient standards by October 15, 2010. In January 2010 the EPA proposed numeric nutrient criteria that would impose very stringent limitations on discharges to all water bodies, including drainage lakes and canals. While some portions of the criteria have been delayed until 2012, the criteria that covers lakes – the water bodies potentially impacted by reclaimed water systems - are still scheduled to go into effect October 15, 2010. The cost of compliance to businesses, farms and utilities in South Florida is staggering and could possibly shut down the reclaimed water systems that Florida utilities have invested in at a cost of several billion dollars.

Many of WUD's customers and homeowners associations have requested more information on the subject. WUD in conjunction with a consortium of cities, counties, associations (including Florida Association of Counties) and businesses developed the attached bill stuffer which WUD is requesting to be distributed in the bills beginning October 10, 2010, for one bill cycle. Countywide (MJ)

**Background and Justification:** The first set of EPA mandates is scheduled to take affect October 15. If that occurs, the new mandates will have an immediate, chilling impact of Florida's economy, because the federal mandates will be the "law of the land" in Florida. Every water discharge permit that comes up for renewal will be subject to the new federal mandates, and EPA regulators will consider water bodies that do not meet the new federal mandates to be impaired. Continue on Page 3

**Attachments:**

1. Utility Bill Insert
2. Senator Bill Nelson Letter to EPA Administrator Lisa Jackson
3. Letter to the Florida Congressional Delegation from Utility, Industry & Government Stakeholder Groups
4. Recent South Florida Sun-Sentinel OP-ED from Senator Chris Smith
5. Letter to USEPA Secretary, Lisa Jackson from Florida Congressional Delegation
6. Florida Associations of Counties Letter to EPA Administrator Lisa Jackson

Recommended By: Bob Ben 9/22/10  
Department Director Date

Legal Sufficiency: Sharon G. By 9/30/10  
Assistant County Attorney Date

**II. FISCAL IMPACT ANALYSIS**

**A. Five Year Summary of Fiscal Impact:**

Fiscal Years	2011	2012	2013	2014	2015
Operating Expenses	\$6,917.00	0	0	0	0
External Revenues	0	0	0	0	0
Program Income (County)	0	0	0	0	0
In-Kind Match County	0	0	0	0	0
NET FISCAL IMPACT	\$6,917.00	0	0	0	0
# ADDITIONAL FTE POSITIONS (Cumulative)	0	0	0	0	0

Budget Account No.: Fund 4001 Dept 720 Org 1110 Object 4703

Is Item Included in Current Budget? Yes  No

Reporting Category N/A

**B. Recommended Sources of Funds/Summary of Fiscal Impact:**

The cost of printing and distributing the flyers will be funded by Water Utilities Department user fees.

C. Department Fiscal Review: Shirley M West

**III. REVIEW COMMENTS**

**A. OFMB Fiscal and/or Contract Development and Control Comments:**

Estimate cost for printing and distributing flyers are based on a one time distribution for FY2011

[Signature]  
OFMB

[Signature] 9/20/10  
Contract Development and Control

OK  
9/27/10 2/23/10

**B. Legal sufficiency:**

[Signature] 9/30/10  
Assistant County Attorney

**C. Other Department Review:**

\_\_\_\_\_  
Department Director

**Continue from Page 1:** This Florida-only rule would impose substantial new costs on Florida's citizens, local governments and utilities. Experts in Florida continue to question the scientific basis for these standards and whether they are even attainable with existing technologies. Florida scientists have raised serious questions regarding with scientific validity of EPA's proposed criteria.

A study done by Carollo Engineers for the Florida Water Environment Association Utility Council projects that the new EPA mandates will force wastewater treatment facilities to spend up to \$50.7 billion in capital costs for additional treatment facilities, as well as up to \$1.3 billion per year in additional operating costs. The mandates translate into an increase of \$700 a year for the average Florida household. PBCWUD's capital cost alone would be as much as \$200 million.

The alternative would be to discontinue use of our sophisticated reclaimed water system in which we have invested nearly \$200 million and which saves our county over 40 million gallons per day of fresh water. Attached to this item are example letters and OP-EDS on the NNC which are appearing throughout South Florida. As a result, PBC WUD is receiving numerous requests from customers and homeowners associations for more information regarding the NNC rule. The attached informational bill stuffer summarizes the issue simply in layman's terms and provides URL addresses to EPA's website where additional information can be obtained.



## New Environmental Protection Agency Rules Could Soon Raise Your Water Bill

Palm Beach County Water Utilities Department would like to inform you of new water regulations being proposed by the United States Environmental Protection Agency (EPA).<sup>1,2</sup>

An estimated \$275,000,000 upgrade to the Palm Beach County Water Utilities Department's waste water facility and processes may be required to meet these new regulations.

### Investments to achieve these proposed standards could result in a \$50 to \$75 increase on your water bill each month.<sup>3</sup>

Many government and scientific agencies, including the Florida Department of Environmental Protection and the EPA's Science Advisory Board, have expressed concerns that these proposed regulations are not supported scientifically.<sup>4,5</sup> In addition, according to statements by State officials, the proposed rules may cause serious economic harm to our state while having uncertain environmental benefit.<sup>6</sup>

Palm Beach County Water Utilities Department fully supports initiatives that protect our environment. While we want our customers to enjoy superior water quality, we also believe that new environmental regulations must be supported by the best available science and be achievable at a practical cost.

The Palm Beach County Water Utilities Department encourages our customers to learn more about this potential regulation by going to <http://water.epa.gov/>. The EPA's Assistant Administrator of Water, Peter Silva, can be contacted at [silva.peter@epa.gov](mailto:silva.peter@epa.gov).<sup>7</sup>

<sup>1</sup> EPA has proposed water quality standards in the State of Florida that would set a series of numeric limits on the amount of phosphorus and nitrogen pollution, also known as "nutrient" that would be allowed in Florida's lakes, rivers, streams, springs and canals. This proposed action seeks to improve water quality, protect public health, aquatic life and the long term recreational uses of Florida's waters, which are a critical part of the State's economy. The proposed standards comply with the terms of a January 2009 EPA determination under the Clean Water Act that numeric nutrient standards are needed in Florida and an August 2009 consent decree between EPA and the Florida Wildlife Federation. <http://www.epa.gov/waterscience/standards/rules/florida/>

<sup>2</sup> Florida Department of Environmental Protection: <http://www.dep.state.fl.us/water/wqssp/nutrients/faq.htm>

<sup>3</sup> Carollo Engineers: TECHNOLOGIES TO MEET NUMERIC NUTRIENT CRITERIA AT FLORIDA'S DOMESTIC WATER RECLAMATION FACILITIES, November 18, 2009 (prepared for the Florida Water Environment Association Utility Council): <http://www.pbcwater.com/NNCR-Cost.pdf>

<sup>4</sup> Florida Department of Environmental Protection: <http://www.dep.state.fl.us/water/wqssp/nutrients/federal.htm>

<sup>5</sup> EPA Science Advisory Board: [http://yosemite.epa.gov/sab/SABPRODUCT.NSF/E09317EC14CB3F2B85257713004BED5F/\\$File/EPA-SAB-10-006-unsigned.pdf](http://yosemite.epa.gov/sab/SABPRODUCT.NSF/E09317EC14CB3F2B85257713004BED5F/$File/EPA-SAB-10-006-unsigned.pdf)

<sup>6</sup> The Florida Cabinet, Honorable Governor Crist presiding, December 8, 2009. Pages 51 - 54: <http://www.myflorida.com/myflorida/cabinet/agenda09/1208/TRANS1208.pdf>

<sup>7</sup> U.S. Environmental Protection Agency  
Office of Water (4101M)  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460



PBCWATER.COM



## United States Senate

WASHINGTON, DC 20510-0905

September 16, 2010

BILL NELSON  
FLORIDA

The Honorable Lisa Jackson  
Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460

Dear Administrator Jackson,

As you are aware, in January the Environmental Protection Agency (EPA) issued a proposed rule to establish numeric nutrient criteria for Florida lakes, flowing waters, and clear springs.

As we have discussed, I share the concerns many Florida residents, municipalities, businesses, and farmers have about the potential cost of compliance with these standards and the validity of the science. I believe you made the right decision to submit the portions of the rule related to downstream values, canals, coastal, and estuarine waters to the EPA Science Advisory Board for peer review and delay finalizing those rules until August 2012. However, I am concerned that the rule for lakes, streams, and springs is still set to be finalized on October 15, 2010.

On August 3, 2010, EPA published a notice in the Federal Register soliciting comments on new data and options to divide the watershed regions of the state. This publication was followed by a thirty-day public comment period. As I understand it, EPA has received thousands of comments on this rule. Given the large amount of input, I urge you to delay finalizing the rule for lakes, streams, and springs and allow ample time to fully consider the comments.

Clean water is a goal we all share. That is why it is imperative that this regulation is finalized in a deliberative manner, utilizing sound science and considering the effects of implementation. Rushing to finalize the rule could result in further uncertainty and unnecessary economic hardship for municipal governments and Florida industry.

I look forward to your response and thank you in advance for your efforts to ensure that the concerns of Floridians are fully considered when deciding how to finalize and implement this rule.

Sincerely,

A handwritten signature in black ink that reads "Bill Nelson". The signature is written in a cursive style with a large, prominent "B" and "N".

September 14, 2010

Members of the Florida Delegation  
United States Senate & United States House of Representatives  
Washington, D.C.

RE: Florida Nutrient Criteria

Dear Senators and Representatives:

On October 15, 2010, the U.S. Environmental Protection Agency (EPA) is scheduled to finalize the first phase of its unprecedented numeric nutrient criteria rulemaking for the State of Florida. As leaders of several key sectors of Florida's economy that will be negatively affected by this rule, we believe the EPA must subject its proposed criteria to third party scientific review and economic analysis prior to finalizing this rule. As the deadline for the final rule nears, we are again asking for your assistance in requesting an independent scientific and economic review of EPA's proposed criteria in its entirety. EPA must take these additional steps prior to implementing this rulemaking.

This Florida-only rule would impose substantial new costs on Florida's citizens, local governments, and the business community. Experts in Florida continue to question the scientific basis for these standards and whether they are even attainable with existing technologies.

This EPA rule is the last thing that Florida's economy needs now as it struggles to recover from the recession. State unemployment hovers around 11.5 percent. Meanwhile, EPA is poised to impose new numeric nutrient standards for Florida's streams, lakes, and springs this October that will add substantial new costs on all Floridians. The Florida Department of Environmental Protection, Florida Department of Agriculture and Consumer Services, and other Florida public and private entities estimate that the cost of compliance with the new criteria will be well into the *billions of dollars*. Florida simply cannot afford this additional financial burden.

All Floridians want clean water in our state. Clean water is essential for the state's economy and it is good for business. Thus we support Florida's existing science-based nutrient water quality programs which have created measurable environmental improvements in Florida's estuaries, lakes, rivers, and streams. However, we cannot support this EPA rulemaking effort which was spawned by litigation, not science. Florida scientists have raised serious questions regarding the scientific validity of EPA's proposed criteria. Unfortunately, thus far EPA has ignored calls to subject its proposed nutrient limits in its entirety to independent scientific peer review or economic analysis. Instead, EPA plans to finalize its unprecedented standards for Florida's lakes, streams, and springs this October in the absence of comprehensive, objective scientific review.

We know that Florida's economic health is important to you. We appreciate your previous efforts to improve this EPA rulemaking process, but we still need your help. October 15, 2010 is now only six weeks away, and significant questions regarding this EPA rule remain unanswered. It is important to keep EPA true to its stated goal of transparency within its rulemaking process. To meet this goal of transparency-it is imperative that EPA agree to a thorough, independent peer reviewed scientific analysis as well as an independent economic assessment of the proposed rule for all Florida waters. EPA must also agree to modify its rule in accordance with the outcome of this analysis. Absent these steps, we believe the final rule will be terribly flawed, not scientifically sound and economically devastating.

Again, thank you for your continued support. We look forward to working with you on this important issue to make sure that the critical scientific and economic reviews are completed before the rule is finalized.

Sincerely,

Bevin Beaudet, P.E., Director  
Palm Beach County Water Utilities  
Barney Bishop, President & CEO  
Associated Industries of Florida  
Ben Bolusky, CEO  
Florida Nursery, Growers & Landscape  
Association  
Charles H. Carden, Chair  
Florida Section American Water  
Works Association  
Barbara Carlton, Executive Director  
Peace River Valley Citrus  
Growers Association  
Ed Chambers, President  
United Food and Commercial Workers  
International Union – Local 1625  
William L. Dever, Jr., President  
Florida Gulf Coast Building &  
Construction Trades Council  
Jeff Doran, Executive Vice President  
Florida Forestry Association  
Mercer Fearington, Jr., Executive Director  
Florida Pulp and Paper Association  
Alfonso Fanjul, Chairman/CEO  
Florida Crystals Corporation  
Jim Handley, Executive Vice President  
Florida Cattlemen's Association  
Ron Hamel, Executive Vice President  
Gulf Citrus Growers Association  
Martha Harbin, Executive Director  
Florida Beverage Association  
Mary Hartney, President  
Florida Fertilizer & Agrichemical  
Association  
John L. Hoblick, President  
Florida Farm Bureau Federation  
Ray Hodge, President  
Florida Water Quality Coalition, Inc.  
Chris Holley, Executive Director  
Florida Association of Counties  
Bill Hunter, President  
Association of Florida Community  
Developers

Chuck Littlejohn, Executive Director  
Florida Land Council  
Lauren McCarthy, Executive Director  
Florida Recycling Partnership  
Dale Rossman, Chairman  
Floridians for Industry, Jobs, and Growth  
Frank Rudd, Executive Director  
Florida Engineering Society  
Daryl Sargent, President  
Florida Poultry Federation  
Mike Sittig, Executive Director  
Florida League of Cities  
Michael W. Sparks, Executive Vice President  
Florida Citrus Mutual  
Kurt Spitzer, Executive Director  
Florida Stormwater Association  
Paul Steinbrecher, PE, President  
Florida Water Environment Association  
Utility Council  
Nancy Stephens, Executive Director  
Manufacturers Association of Florida  
Michael J. Stuart, President  
Florida Fruit & Vegetable Association  
Ford B. West, President  
The Fertilizer Institute  
Gary Williams, Executive Director  
Florida Rural Water Association  
Bill Willingham, Executive V.P. & General  
Manager  
Florida Electric Cooperatives Association  
Mark Wilson, President & CEO  
Florida Chamber of Commerce  
Steve Wilson, Chairman, President and Chief  
Executive Officer  
CF Industries  
Joel Wolf, President  
South Florida Aquatic Plant Management  
Society, Inc.  
Joe Wright, President  
Southeast Milk Inc.

## South Florida Sun-Sentinel.com

### EPA's water strategy is too costly for Florida

Chris Smith

South Florida Sun-Sentinel

September 12, 2010

Florida's economy is struggling to get back on its feet. Too many hard-working families are hanging on by a thread just to pay their bills and keep a roof over their heads. Local governments are financially stretched thin. Forecasters project a budget deficit at the state level.

This is today's economic reality in the Sunshine State. Even with the fiscal challenges that are gripping our communities and families, to settle a lawsuit, the federal government is moving forward with plans to implement costly new water mandates on our state that would require water utilities to spend tens of billions of dollars to upgrade water treatment facilities.

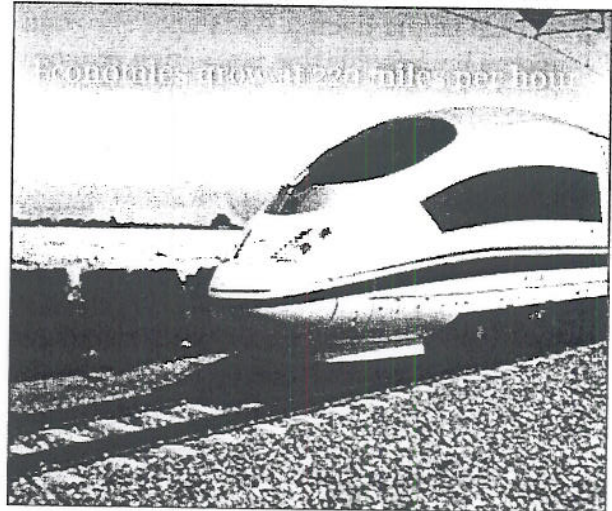
Floridians want to protect our state's waters and I support promoting clean water. Our state is a national leader in water quality protection and has spent tens of millions of dollars over the last decade to scientifically evaluate the quality of our water and clean up pollution.

We must move Florida forward in a way that does not hamper job growth or pose unbearable new costs on working families. During this period of high unemployment, the cost increases that would grow from the new federal water mandates could impede our state's economic recovery, force Florida businesses to cut jobs, and increase the price of utilities, food and other necessities for Florida employers, families and consumers.

A study by the Florida Water Environment Association Utility Council highlights this great concern. The study projects that the new EPA mandates could force utilities across Florida to spend an estimated \$50.7 billion to upgrade water treatment facilities to meet the new standards. That's on top of a projected \$1.3 billion per year in additional operating costs.

For Broward County alone, these increases could top \$2 billion. Unfortunately, these costs likely would be passed on to families through higher water bills. That translates into an increase of \$700 a year for the average Florida household. For most families these days, that is a lot of money. The high cost shapes how Floridians feel about the mandates. A recent Mason-Dixon poll of Florida voters showed 61 percent of those surveyed were against the water regulations if the regulations were to result in a \$700 increase in their water bills. Even though the EPA's cost projection is lower, supporters of the new mandates concede they will drive costs higher. In its review of EPA's estimates released in April, the Florida

advertisement





Department of Environmental Protection, or DEP, discovered that the EPA “significantly underestimated the costs to achieve the proposed EPA criteria.”

The DEP estimates concluded the annual cost to meet the new federal water standard could come in at more than \$12 billion a year — that’s \$632 more for every one of our 19 million Florida residents.

There is no question that Florida communities, families and employers face paying an astronomical price tag to comply with the new mandates. I’m concerned that, without responsible partnerships and programs in place to ensure our most vulnerable citizens can afford their utility bills, these widespread cost increases could function as a regressive tax on water. Unfortunately, the burden would fall most heavily the most vulnerable Floridians, many who happen to be black, Hispanic and elderly households surviving on low and fixed incomes.

There is a precedent for providing this kind of assistance to vulnerable people who face having these higher costs eat up a larger percentage of their incomes. For example, at the federal level there is the Low Income Home Energy Assistance Program — a \$5.1 billion a year effort to provide assistance to low-income households that pay a high proportion of household income for home energy use.

At the state level, we have the Link-Up Florida and Lifeline Assistance Programs that provide rebates and monthly credits to low-income customers in our state to help make telephone service more affordable for eligible residents.

These programs can serve as models to help Floridians meet the increased costs forced on them by these federal mandates. Many of my colleagues in the Florida Legislature share my concern about the economic impact of the water mandates on Florida’s citizens, local governments and vital economic engines. The House adopted a memorial on the issue. Earlier this year, the Palm Beach County League of Cities and the City of Boca Raton passed resolutions joining local governments and officials across the state opposing the new water mandates.

Most of Florida’s congressional delegation, a bipartisan group including my congressman, U.S. Rep. Alcee Hastings, signed a letter earlier this month stating the “EPA’s unprecedented nutrient criteria rule-making appears poised to impose substantial regulatory and economic consequences on Floridians.”

This group of Democrats and Republicans urged the EPA to allow an independent analysis of the regulation’s economic impact on Florida that would look at how the rules could force costly expenses on Florida industry, employers, utilities and consumers. The troubling aspect of these new regulations to me, and probably to the Congressional delegation, is that the new regulations were brought by litigation rather than legislation. The rules have resulted from a lawsuit brought by environmental advocacy groups against the EPA.

It’s troubling that Florida would be the only state targeted by the EPA’s mandates containing deadlines and strict federal oversight. I don’t believe this is fair, particularly considering Florida’s leadership in enforcing aggressive water quality standards to keep our waterways clean for conservation and recreation.

All these reasons inform my conclusion that this action by the EPA is premature at best and could not come at a worse time for Florida’s struggling families. For the sake of Florida’s struggling economy and working families, I sincerely hope the EPA will reconsider the necessity of this approach or delay enforcement of these proposed regulations and allow Florida’s economy a greater chance to get back on its feet.

Chris Smith is a member of the Florida Senate representing District 29 in Broward and Palm Beach counties.

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**Congress of the United States**  
**Washington, DC 20515**

August 2, 2010

The Honorable Lisa Jackson  
Administrator  
United States Environmental Protection Agency  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460

Dear Administrator Jackson,

As you know, the Environmental Protection Agency (EPA) has issued a proposed rule establishing federal numeric nutrient criteria for Florida water bodies. In accordance with a consent decree EPA entered into with several litigants, EPA committed to issue a final rule for Florida lakes and streams by October 2010 and for Florida canals, coastal waters, and estuaries by August 2012.

EPA's numeric nutrient criteria rulemaking will impact all Florida citizens, local governments, and vital sectors of Florida's economy, including agriculture. It is thus imperative that EPA ensure that its federal criteria are based on sound scientific rationale; necessary to protect the applicable designated uses of Florida waters; and reflective of the range of natural variability associated with state waters.

To that end, we applaud EPA's decision to delay finalization of criteria for Florida's canals, coastal waters, and estuaries to August 2012 to allow EPA's Science Advisory Board (SAB) to conduct a peer review of EPA's data and methodologies for deriving criteria for these waters. It is our expectation that the SAB's peer review will consider the appropriateness of the numerical limits proposed for canals, estuaries, and coastal waters and analyze whether the proposed criteria are sufficiently based on or correlated with cause and effect relationships between nutrients and biological responses in these Florida waters. Also, because a peer review process is only meaningful if the agency is prepared to be responsive to the comments of independent experts, we expect that EPA will modify its rulemaking in accordance with the SAB's analysis and recommendations.


In addition to reviewing the proposed criteria for Florida's canals, estuaries, and coastal waters, we strongly urge that EPA extend the scope of its SAB peer review to include examination of the proposed numeric nutrient criteria and underlying derivation methodologies for Florida's rivers, streams, and lakes. We believe that the SAB peer review process is important, and it should apply to all of the criteria to be imposed in Florida, not just criteria for canals, coastal waters, and estuaries. We strongly urge that EPA delay requirements to implement its proposed streams and lakes criteria until the peer review concludes, and EPA should adjust its rulemaking in accordance with the peer review analysis and recommendations.


Lastly, we strongly urge that EPA provide for an independent analysis to assess the economic impact of the proposed rule on Florida and adjoining states. The assessments should consider economic information submitted by Florida governmental entities and the public in EPA's rulemaking process; compare the proposed rule to current law in Florida; and account for the potential need to retrofit pollutant reduction measures taken in response to TMDLs and estuary programs for nutrients in Florida.

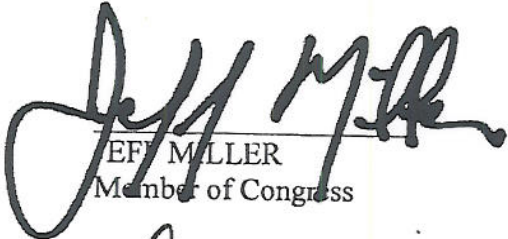
Again, EPA's unprecedented nutrient criteria rulemaking appears poised to impose substantial regulatory and economic consequences on Floridians. We ask that prior to deciding whether to implement numeric nutrient criteria, you ensure that all aspects of EPA's rulemaking are based on a sound scientific rationale and that the costs and potential unintended consequences associated with the rule are well understood.


Sincerely,

  
ADAM H. PUTNAM  
Member of Congress


  
TOM ROONEY  
Member of Congress

  
GEORGE LEMIEUX  
United States Senator

  
JEFF MILLER  
Member of Congress

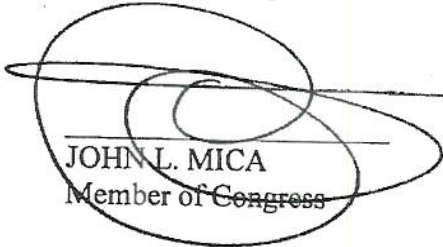
  
ALLEN BOYD  
Member of Congress

  
CORRINE BROWN  
Member of Congress


  
ANDER CRENSHAW  
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GINNY BROWN-WAITE  
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GUS M. BILIRAKIS  
Member of Congress

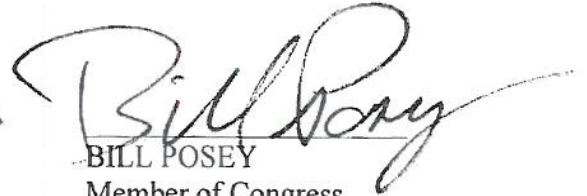
  
C.W. BILL YOUNG  
Member of Congress



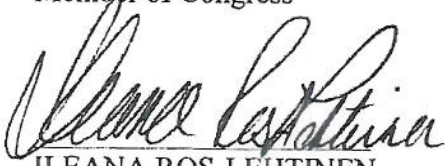
VERN BUCHANAN  
Member of Congress



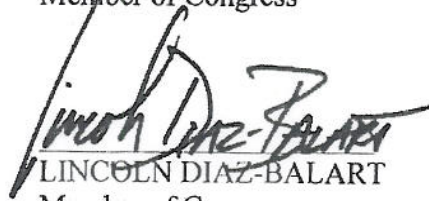
CONNIE MACK  
Member of Congress



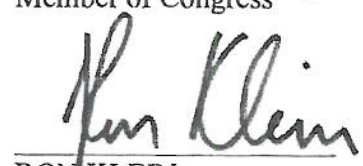
BILL POSEY  
Member of Congress



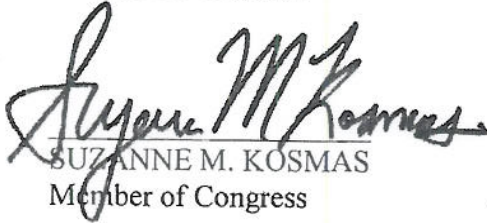
ILEANA ROS-LEHTINEN  
Member of Congress



LINCOLN DIAZ-BALART  
Member of Congress



RON KLEIN  
Member of Congress



SUZANNE M. KOSMAS  
Member of Congress



MARIO DIAZ-BALART  
Member of Congress



ALCEE L. HASTINGS  
Member of Congress



*All About Florida*

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PRESIDENT  
ALACHUA

ILENE LIEBERMAN  
PRESIDENT ELECT  
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DOUG SMITH  
FIRST VICE PRESIDENT  
MARTIN

BILL WILLIAMS  
SECOND VICE PRESIDENT  
GULF

SUSAN LATVALA  
IMMEDIATE PAST PRESIDENT  
PINELLAS

CHRISTOPHER L. HOLLEY  
EXECUTIVE DIRECTOR

February 22, 2010

The Honorable Lisa Jackson  
Administrator  
United States Environmental Protection Agency  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460

Re: Proposed EPA Numeric Nutrient Criteria Rule

Dear Administrator Jackson,

The Florida Association of Counties (FAC) is writing to express our concern with the above-referenced proposed rule. While FAC supports the development of science-based numeric nutrient criteria, it is questionable at best as to whether this complex rule can be developed in such a short timeframe in a scientific way, and in a way that properly balances the economic impact with environmental protection.

The Florida Department of Environmental Protection (DEP), in conjunction with Florida's local governments, has collected a significant amount of water quality data, much more than any other state. This is a good start in working toward numeric criteria. However, the methodologies being used to derive the numbers appear to be flawed. We are particularly concerned that 80% of DEP's reference waters would not meet downstream protection values under this proposed rule. Several of these waters are in fully protected and publicly-owned lands. This is a clear indicator that something is wrong with the methodology being used to derive the numbers.

With the current state of the economy, Florida's counties currently face severe budget constraints. EPA is asking Florida's counties, and thus our taxpayers, to shoulder a significant economic burden during a very difficult time. Counties are laying off employees, cutting salaries, and instituting furloughs. We are receiving reports from counties that some of the proposed criteria are simply unattainable, and there is no amount of money they could spend that would allow them to achieve compliance. That is a very real problem that needs to be addressed.

And it is critical that EPA gets the numbers right. Otherwise, local governments will be wasting taxpayer dollars on projects that will not achieve any environmental benefit. With counties' limited resources, it is important to ensure that the projects they undertake achieve the most environmental benefit possible. Getting the numbers wrong can also result in environmental damage, which is something that no one wants.

**80**  
YEARS  
1929-2009

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P.O. BOX 549 • TALLAHASSEE, FL 32302 • PHONE (850) 922-4300 • FAX (850) 488-7501  
WWW.FL-COUNTIES.COM

While there will be a process for site specific criteria, this alone is not a silver bullet. Receiving approval for a site specific criterion will be a time-consuming and expensive process, which might or might not ultimately succeed in any given case. It would be much better to invest the time and effort into criteria that are more accurate, so there will be less need to deviate from them and they will be the exception rather than the rule. Each application for an alternative criterion also brings with it the risk of litigation. Each time this happens, more money is wasted on litigation, and less money is spent making actual water quality improvements.

For all of these reasons, FAC urges EPA to proceed in a deliberative fashion in order to find a solution that makes sense both economically and for the environment. FAC has worked closely with the Florida Water Environment Association (FWEA) Utility Council and the Florida Stormwater Association to understand the implications and associated costs for county wastewater and stormwater utilities. Both entities have a significant amount of technical expertise available to them. Therefore, FAC respectfully requests that you carefully consider their written and verbal comments. FAC also requests that you extend the public comment period for 60 days to allow more a more thorough technical analysis of this issue. There is simply too much at stake for Florida's economy to rush through this process.

Sincerely,



Chris Holley  
Executive Director

cc: Mike Sole, Secretary, Florida Department of Environmental Protection  
Senator Lee Constantine, Chair, Florida Senate Environmental Preservation and Conservation Committee  
Representative Trudi Williams, Chair, Florida House of Representatives Natural Resources and Agriculture Policy Committee  
Commissioner Rodney Long, FAC President  
Commissioner Doug Conkey, Vice-Chair, FAC Growth, Environmental Planning, and Agriculture Policy Committee  
Commissioner Lee Pinkoson, Vice-Chair, FAC Growth, Environmental Planning, and Agriculture Policy Committee  
Commissioner Charlie Stone, Co-Vice Chair, FAC Growth, Environmental Planning, and Agriculture Policy Committee  
Commissioner Lilly Rooks, Co-Vice Chair, FAC Growth, Environmental Planning, and Agriculture Policy Committee  
Commissioner John Jannazzo, Okaloosa County