



# 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.

[www.evergladescoalition.org](http://www.evergladescoalition.org)

Ph: 954-961-1280 ♦ Fax: 954-985-5047 ♦ 450 N. Park Rd, #301, Hollywood FL 33021

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.

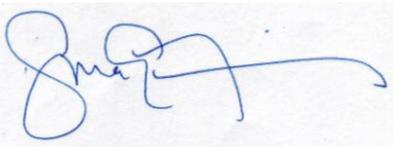
#### Current Process Provides Necessary Flexibility

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,



Sara Fain  
National Co-Chair  
305-546-6689  
[sfain@npca.org](mailto:sfain@npca.org)



Mark Perry  
State Co-Chair  
772-225-0505 x103  
[mperry@fos-cc.org](mailto:mperry@fos-cc.org)

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