

STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION

In re: LOWER ST. JOHNS RIVER
BASIN MANAGEMENT ACTION PLAN.

OGC Case No. 08-2428

**FINAL ORDER ESTABLISHING THE LOWER ST. JOHNS RIVER
BASIN MANAGEMENT ACTION PLAN**

Pursuant to Section 403.067(7), Florida Statutes, this Final Order adopts the attached Basin Management Action Plan (BMAP) for the main stem of the Lower St. Johns River (LSJR). The geographical area addressed by the BMAP is that portion of the St. Johns River that flows between the mouth of the Ocklawaha River, its largest tributary, and the Atlantic Ocean, encompassing a 2,750-square-mile drainage area. Major centers of population within this geographical area include Palatka, a city with a population of 10,700 at the southern entrance to the river basin; Green Cove Springs, a city with a population of 4,700 at the midpoint of the river basin; and the Orange Park, Middleburg, and Jacksonville metropolitan area, with a population of over one million, in the northern portion of the river basin. The adopted BMAP, including the background and detailed management actions, is attached hereto and incorporated herein as Exhibit 1.

The LSJR BMAP has been developed as part of the Department's Total Maximum Daily Load (TMDL) Program, as authorized under the Florida Watershed Restoration Act (Chapter 403.067, Florida Statutes). The LSJR is designated as Class III waters in accordance with Rule 62-302, Florida Administrative Code (F.A.C.). Class III waters must have suitable water quality for recreational use and for the propagation and maintenance of a healthy, well-balanced population of fish and wildlife. The river was verified as impaired by nutrients based on elevated chlorophyll a and Trophic State Index (TSI) levels in the freshwater and marine portions of the river, and was included on Florida's Verified List of impaired waters for the Lower St. Johns River Basin (LSJRB) that was adopted by Secretarial Order on September 4, 2003.

The Department originally adopted nutrient (Total Nitrogen and Total Phosphorus) TMDLs for the LSJR on December 3, 2003 (Rule 62-304.415, F.A.C.), but revised the TMDLs in 2008 to implement a Site-Specific Alternative Criterion for dissolved oxygen that was adopted for the marine portions of the river. The revised TMDLs are shown in Table 3 in the attached Exhibit 1.

The Department worked closely with the affected stakeholders to develop the BMAP to achieve the LSJR TMDLs.

The Department encouraged public participation to the greatest practicable extent by providing routine updates and requests for comments at meetings of the LSJR TMDL Executive Committee and TMDL Stakeholders Group. The Department also held a noticed public meeting in the basin on September 16, 2008, to discuss and receive comments during the planning process.

The LSJR BMAP represents the collaborative effort of local stakeholders to identify current and planned management actions to achieve the nutrient load reductions required by the applicable TMDLs. The adopted BMAP documents the management actions that have been, or will be, undertaken by stakeholders to reduce nutrient loadings within the LSJRB. The management actions (completed, ongoing and planned) identified in the BMAP address both current sources and future loads associated with population growth and land use changes in the LSJRB.

THEREFORE, IT IS ORDERED that the attached Exhibit 1 is hereby adopted as the Lower St. Johns River Basin Management Action Plan.

NOTICE OF RIGHTS

Requests For Administrative Hearings

This final order will become final unless a petition for an administrative proceeding is filed pursuant to the

provisions of sections 120.569 and 120.57, Florida Statutes. Any person whose substantial interests are affected by the Department's action may file such a petition. The petition must contain the information set forth below and must be filed (received) in the Department's Office of General Counsel, 3900 Commonwealth Boulevard, MS 35, Tallahassee, Florida 32399-3000. Petitions must be filed within 21 days of publication of the public notice or within 21 days of receipt of this order, whichever occurs first. The failure of any person to file a petition within the appropriate time period shall constitute a waiver of that person's right to request an administrative determination (hearing) under sections 120.569 and 120.57, Florida Statutes, or to intervene in this proceeding (initiated by a party) and participate as a party to it. Any subsequent intervention will only be at the discretion of the presiding officer upon the filing of a motion in compliance with Rule 28-106.205, F.A.C.

A petition must contain the following information:

(a) The name, address, and telephone number of each petitioner; the Department case identification number and the county in which the subject matter or activity is located;

(b) A statement of how and when each petitioner received notice of the Department action;

(c) A statement of how each petitioner's substantial interests are affected by the Department action;

(d) A statement of the material facts disputed by the petitioner, if any;

(e) A concise statement of the ultimate facts alleged, including the specific facts the petitioner contends warrant reversal or modification of the Department's proposed action;

(f) A statement of the specific rules or statutes the petitioner contends require reversal or modification of the Department's proposed action, including an explanation of how the alleged facts relate to the specific rules or statutes; and

(g) A statement of the relief sought by the petitioner, stating precisely the action petitioner wishes the Department to take with respect to the Department's proposed action.

Because the administrative hearing process is designed to formulate final agency action, the filing of a petition means that the Department's final action may be different from the position taken by it in this order. Persons whose

substantial interests will be affected by any such final decision of the Department on the petition have the right to petition to become a party to the proceeding, in accordance with the requirements set forth above.

Mediation under section 120.573, Florida Statutes, is not available for this proceeding.

The Department may, for good cause shown, grant a request for an extension of time for filing a petition. A request for extension of time must be filed with the Department's Office of General Counsel prior to the applicable deadline. Such requests for extensions of time shall contain a certificate that the moving party has consulted with all other parties, if any, concerning the extension and whether any other parties agree to the extension. A timely request for an extension of time shall toll the running of the time period for filing a petition until the request is acted upon.

This action is final and effective on the date filed with the Clerk of the Department unless a petition is filed in accordance with the above.

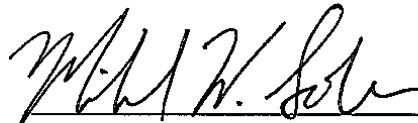
Judicial Review

A party who is adversely affected by this order has the right to seek judicial review under Section 120.68, Florida Statutes, by filing a notice of appeal under Rule

9.110, Florida Rules of Appellate Procedure, with the clerk of the Department in the Office of the General Counsel, Mail Station 35, 3900 Commonwealth Boulevard, Tallahassee, Florida, 32399-3000, and by filing a copy of the notice of appeal accompanied by the applicable filing fees with the appropriate district court of appeal. The notice of appeal must be filed within thirty days after this order is filed with the clerk of the Department.

DONE AND ORDERED this 10th day of October, 2008, in Tallahassee, Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION



MICHAEL W. SOLE
Secretary

Marjorie Stoneman Douglas Building
3900 Commonwealth Boulevard
Tallahassee, Florida 32399-3000

FILED ON THIS DATE PURSUANT TO § 120.52,
FLORIDA STATUTES, WITH THE DESIGNATED
DEPARTMENT CLERK, RECEIPT OF WHICH IS
HEREBY ACKNOWLEDGED.


CLERK

10/14/08
DATE