

STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION

**In re: LOWER St JOHNS
RIVER BASIN TRIBUTARIES II
BASIN MANAGEMENT ACTION PLAN**

OGC Case No. 10-2159

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

Pursuant to Section 403.067(7), Florida Statutes, this Final Order adopts the attached Basin Management Action Plan (BMAP) for Class III surface waterbody sections in the Lower St. Johns River Basin Tributaries, specifically for Craig Creek (WBID 2297), McCoy Creek (WBID 2257), Williamson Creek (WBID 2316), Fishing Creek (WBID 2287), Deep Bottom Creek (WBID 2361), Moncrief Creek (WBID 2228), Blockhouse Creek (WBID 2207), Hopkins Creek (WBID 2266), Cormorant Branch (WBID 2381), Wills Branch (WBID 2282), Sherman Creek (WBID 2227), Greenfield Creek (WBID 2240), Pottsburg Creek (WBID 2265B), Trout River (WBID 2203), Trout River (WBID 2203A). The adopted BMAP, including background and detailed management actions, is attached hereto and incorporated herein as Exhibit 1.

The Lower St. Johns River Basin Tributaries II 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). Surface waters in the Lower St. Johns River Basin are 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 Lower St. Johns River Tributaries Basin is located in Duval County, and includes the cities of Jacksonville, Jacksonville Beach, Atlantic Beach, and Neptune Beach. In 2006, 2009, and 2010 the Department revised Rule 62-304.415, F.A.C., establishing TMDLs for these WBIDs in the Lower St. Johns River. Fecal coliforms are the primary pollutant contributing to the impairment. Table 3 in the attached Exhibit 1 identifies the applicable TMDLs.

The Department worked closely with the affected stakeholders, including the Cities of Jacksonville, Atlantic Beach, Neptune Beach, and Jacksonville Beach, as well as JEA and other local and state agencies, in developing the BMAP to achieve the Lower St. Johns River Basin Tributaries TMDLs. Beyond direct work with the affected stakeholders, the Department encouraged public participation to the greatest practicable extent by providing routine updates in technical meetings and requests for comment at meetings of the Lower St. Johns

River Basin Tributaries II BMAP Working Group. The Department held a noticed public meeting in the basin on June 9, 2010, to discuss the BMAP and receive comments.

The Lower St. Johns River Basin Tributaries II BMAP represents the collaborative effort of local stakeholders to identify current and planned management actions to achieve pollutant load reductions required by the TMDLs. The adopted BMAP documents the management actions that have been, or will be, undertaken by stakeholders to reduce discharge of pollutants in the watershed. The management actions (completed, ongoing, and planned) identified in the BMAP address known sources of pollutants, facilitate investigation of unknown sources, prevent new sources, and address future loads associated with population growth and land use changes in the basin.

THEREFORE, IT IS ORDERED that the attached Exhibit 1 is hereby adopted as the Lower St. Johns River Basin Tributaries II 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, addresses, 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 statement of facts that the petitioner contends warrant reversal or modification of the Department action;

(f) A statement of which rules or statutes the petitioner contends require reversal or modification of the Department action; and

(g) A statement of the relief sought by the petitioner, stating precisely the action that the petitioner wants the Department to take.

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 of the 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 12th day of August, 2010,
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

8/18/10
DATE