



ENVIRONMENTAL PROTECTION and GROWTH MANAGEMENT DEPARTMENT
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December 08, 2009

Jerry Brooks, Director
Environmental Assessment & Restoration
Florida Department of Environmental Protection
2600 Blair Stone Road, MS 3000
Tallahassee, Florida 32399-2400

Re: FDEP Designated Uses and Classification System

Dear Mr. Brooks:

I would like to express our agency's appreciation for your attention to our concerns regarding the revision of Rule 62-302.400, FAC relating to the reclassification of surface waters, and especially the time you took from your schedule to travel to Broward County on November 13 to meet with us personally to discuss the proposed rule and Broward County's comments. While we are pleased to see several of our concerns addressed in a recent draft of the rule dated 11/6/09, we continue to request further amendment of the rule consistent with comments staff provided in personal communications on November 13 and subsequently at the FDEP public workshop on November 18 FDEP. The specifics of this request are detailed below.

Section 62-302.400(11) of the rule specifies the terms under which petitions for less stringent surface water classifications may be considered. It is understood that circumstances might occur where a reclassification might be justified, however, the rule needs to include provisions for ensuring that current levels of water quality are protected from degradation, to avoid the potential use of the reclassification process to further degrade waters. Thus, we request that specific language prohibiting such actions or violations of the antidegradation provisions of Rule 62-302.300 FAC be included in the rule as follows:

Section 62-302.400(11)(a): "The proposed reclassification will not result in violations of the antidegradation provision of Section 62-302.300, FAC, or allow for a reduction or further degradation in ambient water quality, as represented in historical background water quality data measured prior to the proposed reclassification"

Further, we request that the reference in Section 62-302.400(12) of the rule to "a local environmental program approved by the Department pursuant to Section 403.182, FS" be changed to "a local pollution control program approved by the Department pursuant to Section 403.182, FS", in recognition that this designation confers regulatory authority which sets these programs apart from other environmental programs not established under Ch. 403.

Broward County Board of County Commissioners

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We would also like to respond to a suggestion made at the November 18 public workshop to categorically define and associate in the rule specific waterbody types, such as canals, with human use and aquatic life use support designations. We are opposed to this approach because it confers a specific quality and use designation expectation based on a generic waterbody description, rather than individual attributes, and could result in arbitrary lowering of expectations and protections for affected waterbodies.

We again appreciate your consideration of the issues we have raised and your receptiveness to our suggestions and we look forward to working with the FDEP to ensure the continued protection of our waterbodies. Should you have any questions, please do not hesitate to contact Dr. Jennifer Jurado, Director of Natural Resources Planning and Management Division at 954-519-1464 or jjurado@broward.org.

Sincerely,



Eric Myers, Assistant Director
Environmental Protection and Growth Management Department

Cc: Eric Shaw, Environmental Manager, FDEP ✓
Bertha Henry, Broward County Administrator
Cynthia Chambers, Director, Environmental Protection and Growth Management Department
Dr. Jennifer Jurado, Director, Natural Resources Planning and Management Division
Al Simon, Director, Development and Environmental Regulations Division
Gretchen Harkins, Director, Office of Intergovernmental Affairs and Professional Standards
Michael Owens, Senior Assistant County Attorney
Alan Garcia, Director, Water and Wastewater Services
Susan Markley, Miami-Dade DERM