

# City of Pensacola



*America's First Settlement  
Established 1559*

**MICHAEL C. WIGGINS**  
*Mayor*

September 2, 2009

Secretary Michael W. Sole  
Florida Department of Environmental Protection  
3900 Commonwealth Boulevard, M.S. 49  
Tallahassee, FL 32399

Dear Mr. Sole:

Decisions on water quality standards have huge fiscal implications for local governments that are responsible for protecting and restoring water bodies. It is vital that water bodies be classified in a way that reflects the actual purpose of the water body. The appropriate classification system will help to ensure that our waterways are protected and that tax dollars are well spent.

On Monday, July 20, 2009, the Florida Stormwater Association filed a petition with the Environmental Regulation Commission asking that rulemaking be initiated to revise Florida's system of classifying water bodies and determining their use.

Currently, Florida has five classes of water bodies, although only four are used. The overwhelming majority of waters fall into the category of Class III recreational waters, the so-called "swimmable and fishable waters. While this category includes lakes, streams, and springs, it also includes concrete-lined ditches, man-made canals and many other urban storm water conveyances. The same water-quality criteria apply to all Class III waters, resulting in some standards being over-protective (and very costly) and others, like those for springs not being protective enough.

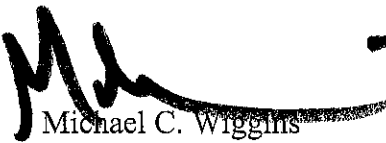
Florida's system of classifying waters has not been comprehensively examined in 40 years and the need for a comprehensive, science-based review of our system of classifying waters is now more important than ever. The progression of the multi-billion dollar Total Maximum Daily Loads (TMDL) program and Florida's recently initiated rulemaking efforts to adopt new, numeric water quality criteria for nutrients have heightened the need for a system of classifying waters and determining their use that makes sense, especially in these times of fiscal constraints. In order for local governments to comply with the numeric nutrient criteria being contemplated by the DEP under the existing classification system, they will be required to implement extensive treatment infrastructure and technologies that will impose severe operating costs and challenges. Local governments should not be spending limited resources in a vain effort to bring water bodies such as

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urban storm ditches into compliance with water quality standards where there is little or no benefit to the natural environment or human uses at the expense of funding for water bodies where the possibility of real improvement exists.

The City of Pensacola, Florida supports a scientific revision of Florida's water body classification system. Enclosed, please find a certified copy of Resolution No. 21-09 adopted by the Pensacola City Council on August 27, 2009 supporting this consideration.

Sincerely,

A handwritten signature in black ink, appearing to read 'M. Wiggins', with a horizontal flourish extending to the right.

Michael C. Wiggins  
Mayor

**RESOLUTION  
NO. 21-09**

**A RESOLUTION  
TO BE ENTITLED:**

**A RESOLUTION OF THE CITY OF PENSACOLA, FLORIDA,  
SUPPORTING ACTIONS BY THE FLORIDA DEPARTMENT OF  
ENVIRONMENTAL PROTECTION AND THE ENVIRONMENTAL  
REGULATION COMMISSION TO CONSIDER REASONABLE,  
SCIENCE-BASED AMENDMENTS TO THE DESIGNATED USES AND  
CLASSIFICATION SYSTEM OF SURFACE WATERBODIES WHILE  
PROTECTING THE QUALITY OF FLORIDA'S WATERS; PROVIDING  
FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Florida Legislature has granted the Florida Department of Environmental Protection ("FDEP") the power and duty to develop a comprehensive program for the prevention, abatement, and control of the pollution of the waters of the state; and

**WHEREAS**, the City of Pensacola Florida shares the goal of preserving water quality with the Department, the United States Environmental Protection Agency ("EPA") and all stakeholders; and

**WHEREAS**, FDEP and the U.S. Environmental Protection Agency ("EPA") have developed a program to limit pollutant discharges to Impaired Waters to that amount a water body could receive without exceeding water quality standards, known as the Total Maximum Daily Loads ("TMDL") program; and

**WHEREAS**, developing these TMDL pollution limits has proven to be a very complicated, problematic, time-consuming and expensive process; and

**WHEREAS**, the TMDL development process has been hampered by litigation that has resulted in court-ordered schedules that did not sufficiently consider the complexities involved in the TMDL program; and

**WHEREAS**, many of the resulting TMDL limits proposed have been criticized as requiring unreasonable and unnecessary limits resulting in costs which are unproductive in terms of improving water quality; and

**WHEREAS**, neither the Congress of the United States nor the Legislature of the State of Florida have appropriated funds to local governments in amounts sufficient to ensure compliance with the requirements of the TMDL program; and

**WHEREAS**, there are many competing needs for every local community's financial resources such that due diligence must be used to ensure that the limited funding that is available and is effectively applied; and

**WHEREAS**, failure to use such due diligence actually works against the goal of preserving water quality by wasting limited financial resources; and

**WHEREAS**, both EPA, FDEP and the National Science Foundation have all recognized the need for refining the system for classifying various waters by their functional use; and

**WHEREAS**, Florida's system of classification of waterbodies has not been re-examined on a comprehensive, scientific basis for more than 40 years; and

**WHEREAS**, the existing classification system forces local governments or other funding entities to allocate scarce financial resources in an attempt to bring many water bodies (such as urban stormwater ditches) into compliance with water quality standards where there will be little or no potential benefit to the natural environment or human uses at the expense of funding for waters where the possibility of real improvements exists; and

**WHEREAS**, FDEP previously convened an advisory committee of experts known as the Designated Uses and Classification Refinement Policy Advisory Committee ("PAC") to study and make recommendations for amending the designated uses and classifications of water bodies; and

**WHEREAS**, the PAC developed several reports which included a new, science-based system of uses and classifications for water bodies but did not recommend any revisions to existing waters on a statewide basis; and

**WHEREAS**, the Florida Stormwater Association has filed a petition requesting that FDEP and the Environmental Regulation Commission initiate rulemaking on the classification and use system based on the recommendations of the PAC; **NOW, THEREFORE**,

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PENSACOLA, FLORIDA:**

**SECTION 1.** The City Council supports the consideration by FDEP and the ERC of reasonable, science-based revisions to Florida's waterbody use and classification system that are considered in an open, public process.

**SECTION 2.** The City Council authorizes the City Manager to send a copy of this resolution to the Governor of Florida, Speaker of the Florida House of Representatives, President of the Florida Senate, the Secretary of FDEP, and the Administrator of the U.S. Environmental Protection Agency and the Chair of the Escambia County State Legislative Delegation.

**SECTION 3.** This Resolution shall become effective upon adoption by the City Council.

Adopted: August 27, 2009

Approved: s/Michael C. Wiggins  
Mayor

Attested:

s/Ericka L. Burnett  
City Clerk

Legal in form and valid if adopted:

s/William D. Wells  
City Attorney

I, DO HEREBY CERTIFY THAT THE ABOVE AND FOREGOING IS A TRUE AND CORRECT COPY OF THE ORIGINAL THEREOF ON FILE IN MY OFFICE. WITNESS MY HAND AND THE CORPORATE SEAL OF THE CITY OF PENSACOLA, FLORIDA THIS THE 1<sup>st</sup> DAY OF September, 2009  
Ericka L. Burnett  
CITY CLERK  
CITY OF PENSACOLA, FLORIDA