



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960



SEP 28 2007

Mr. Jerry Brooks
Director
Division of Environmental Assessment and
Restoration,
Florida Department of Environmental Protection
2600 Blairstone Road, Mail Stop 3560
Tallahassee, Florida 32399-2400

Dear Mr. Brooks:

This letter documents the mutual agreement between the Florida Department of Environmental Protection (FDEP) and the U.S. Environmental Protection Agency (EPA) in regards to the State's revised voluntary numeric nutrient criteria development plan, entitled *State of Florida Numeric Nutrient Criteria Development Plan* (Plan), submitted to EPA in final version for review on September 27, 2007.

EPA recognizes that this Plan represents considerable effort undertaken by the State to address the issue of nutrient over-enrichment. We especially appreciate the close cooperation of your staff with EPA Region 4 in development of Florida's Plan, and your continued support of their participation in our Regional Technical Advisory Group (RTAG). The achievement of mutual agreement on your revised Plan reflects the success of that process.

Based upon our review, we believe this Plan describes a reasonable process by which the State of Florida (State) can develop appropriate protective numeric nutrient criteria for adoption into Florida water quality standards; and that completion of this process by the target dates indicated in the Plan should provide increased protection of state waters from the effects of nutrient over-enrichment.

By this agreement, EPA is acknowledging that this revised plan reflects a reasonable course of action by which the State can proceed to develop numeric nutrient criteria; but this agreement does not, nor should it in anyway be interpreted to constitute an approval, or conditional approval of Florida water quality standards. EPA's agreement at this time does not reflect an in-depth review or a judgment that the resulting criteria will, or will not be protective, or otherwise consistent with the Clean Water Act (CWA).

According to the time-line projected in your revised Plan, we will expect you to submit numeric water quality standards for nutrients for associated waterbody types to EPA for approval during the respective rulemakings. In the interim, we request that the State provide updates to EPA to document progress according to the Plan through the established 106 process conducted

by EPA. In the event that the Plan needs to be revised, changes can be made with mutual agreement, and EPA will update this letter to document our agreement with the revisions.

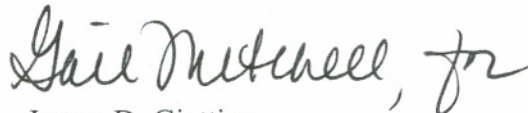
At the end of 2007 (and we anticipate annually thereafter), EPA will use the Plan to evaluate Florida's progress and determine whether or not the State is likely to complete numeric nutrient criteria development and adoption within the agreed upon time frames. If the State has not met the milestones as scheduled in the plan, EPA will evaluate whether a federal promulgation would be appropriate. At that time, the Administrator may choose to exercise his discretion under the CWA § 303(c)(4)(B) to determine that new or revised standards are necessary to meet the requirements of the CWA, and accordingly may choose to promulgate water quality criteria for nutrients applicable to surface waters within Florida in accordance with § 303. However, the revised Plan submitted by FDEP and agreed to here makes this possibility unlikely at this time.

EPA will make every effort to assist the State in developing nutrient criteria in a manner consistent with your Plan. We expect the continued cooperation and communication between Florida and EPA to lead to scientifically defensible and protective nutrient criteria for the State's waters. We applaud the State for making such a significant commitment of time and resources toward completion of this endeavor.

We look forward to working with Florida over the next year as the State continues to refine its approach for rivers and lakes. In addition, we are especially pleased at the updates within the revised plan to address nutrient enrichment in estuarine waters and look forward to the opportunity to work closely with the state on those waters in the coming months. As the State continues the work already initiated through pollution load reduction goal development in several estuaries, exploring development of regional response variable nutrient criteria, participating in the Gulf of Mexico Alliance, and holding an estuary nutrient criteria kick-off meeting, the Region's Nutrient Task Force would welcome the opportunity for dialogue and interaction. The Region's Nutrient Task Force expects to continue working with states to provide technical assistance and we would like to make sure Florida is aware of this resource.

If you have any questions now, or in the future, regarding this matter, please feel free to contact me at 404-562-9345 or have a member of your staff contact the Florida Water Quality Standards Coordinator on my staff, Laurie Lindquist at 404-562-9249.

Sincerely,



James D. Giattina
Director
Water Management Division

cc: Ken Weaver, FDEP