

STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION

**In re: ORANGE CREEK BASIN
MANAGEMENT ACTION PLAN.**

OGC Case No. 08-0731

**FINAL ORDER ESTABLISHING THE ORANGE CREEK
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 Class III surface waters within the Orange Creek Basin. The adopted BMAP, including the background and detailed management actions, is attached hereto and incorporated herein as Exhibit 1.

The Orange Creek BMAP was 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). All surface waters (including wetlands) in the Orange Creek 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 Orange Creek Basin is located predominately within Alachua County. The basin also includes the northern

portion of Marion County that drains to Orange Lake. The basin includes the following water bodies:

- Orange Lake, Cross Creek, Lochloosa Lake, Newnans Lake, and Lake Wauberg;
- Alachua Sink, which is located within the boundaries of the Paynes Prairie Preserve State Park; and
- Gainesville urban creeks, Sweetwater Branch, Tumblin Creek, and Hogtown Creek.

The waters listed above were verified as impaired pursuant to the methodology set forth in Rule 62-303, F.A.C. On August 28, 2002, the Group 1 Verified List of Impaired Waters, including the waters listed above, was adopted by DEP Secretarial Order. A revised Group 1 Verified List of Impaired Waters, including the waters listed above, was adopted by DEP Secretarial Order on March 11, 2003.

In 2003 and 2006 for Alachua Sink, the Department adopted Rule 62-304.500, F.A.C., which in part, established TMDLs for each of the above-referenced impaired waterbodies. Nutrients contribute to the impairment of the lakes and Alachua Sink while fecal coliforms contribute to the impairment of the urban creeks. Table 3.1 in the attached Exhibit 1 identifies the applicable TMDLs for each waterbody.

In October 2004, the Department convened the Orange Creek Basin Working Group (BWG) to develop a BMAP to achieve the TMDLs for surface waters within the basin. The Department invited stakeholders to participate in the Orange Creek BMAP development process and encouraged public participation to the greatest practicable extent. The Department held one public meeting, noticed in the Florida Administrative Weekly, in the basin to discuss and receive comments during the planning process. Basin stakeholders developed the BMAP over a three-year period. Table 4.1 in the adopted BMAP summarizes the Orange Creek BWG organizational structure, process, membership, and citizen involvement efforts.

The Orange Creek BMAP represents the collaborative effort of local stakeholders within the basin to identify current and planned management actions to achieve the TMDLs for nutrients and fecal coliforms. The adopted BMAP documents the management actions that have been, or will be, undertaken by local, regional, state, or private entities to reduce pollutant loads in the basin. The management actions (completed, ongoing, and planned) identified in the BMAP are targeted at addressing both the pollutant loads from historical and current sources and an

estimate of future loads associated with population growth and associated land use changes in the basin.

THEREFORE, IT IS ORDERED that the attached Exhibit 1 is hereby adopted as the Orange Creek 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 15th day of May, 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.

Lea Crandall
CLERK

5/21/08

DATE