



October 18, 2013

Mr. Steve Cioccia
Watershed Planning & Coordination Section
Florida Department of Environmental Protection
2600 Blair Stone Road, MS 3565
Tallahassee, FL 32399-2400

Re: Comments from the City of Tallahassee on the Draft Basin Management Action Plan for the Implementation of the Total Maximum Daily Load for Nutrient (Biology) (BMAP) by the Florida Department of Environmental Protection (FDEP/Department) in the Upper Wakulla River and Wakulla Springs Basin

Sent Via Email to: Stephen.Cioccia@dep.state.fl.us

Dear Steve,

The City of Tallahassee (City) provides the following comments in response to the Department's draft Basin Management Action Plan (BMAP) for implementation of the Upper Wakulla River TMDL. The City would like to thank you and your colleagues for their considerable efforts to produce the draft BMAP and willingness to work closely with stakeholders, including the City, in an effort to produce a comprehensive plan. Attachment 1 is a modified version of the BMAP Word document, which contains all of the City's comments. This letter will summarize a portion of the comments requiring more detailed discussion. Specific comments referenced herein are identified using the comment number assigned in the Word document.

As a preliminary matter, the City notes that Section 403.067(7)(a)4, Fla. Stat., requires the Department to adopt all or part of a BMAP by Secretarial Order subject to Florida's Administrative Procedures Act as set forth in Chapter 120, Fla. Stat. The BMAP as currently drafted contains many references to actions and activities that are aspirational, contingent upon funding or conditioned upon an act of a local government legislative body. Such matters should not be incorporated by reference into the Secretarial Order and thereby subject to an enforcement action. Although a number of BMAPs follow this pattern, the City encourages the Department to separate out those items subject to enforcement from items that are descriptive or provide background or context to the matters addressed in the order.

The BMAP should contain a clear statement of the legal consequences of the plan once adopted by Secretarial Order. Additionally, although the City is participating in the process and in that process may not object to certain projects and activities as set forth in the BMAP, which will be adopted by Secretarial Order, the City is not waiving its rights under Chapter 120, Fla. Stat..

The City, through assigned City staff and management (collectively referred to herein as “we”), provided the following comments:

BMAP COMMENTS

Comment CoT1: Using Estimated Costs from Table 13, the City of Tallahassee has spent \$294 million since 2004. Please provide clarification for the basis of costs provided in this section.

According to the BMAP language, \$241,013,000 has been spent on projects completed since 2004, \$78,832,989 has been spent on completed projects, and \$105,567,100 could be spent on planned or proposed projects. Due to the edit we have made on Table 13, which corrected the start date of City of Tallahassee projects from 2000 to 2004, the amount attributable to projects completed will need to be updated to reflect this change. We were not able to discern the source of project costs associated with the costs given in this section of the BMAP. We suggest you provide a summary table to more clearly show the basis for the numeric values in this section.

Comment CoT2: Outcomes from the BMAP meetings do not seem to indicate consensus has been reached among a significant number of interested parties.

It is not clear what aspects of this BMAP have actually achieved consensus. We suggest adding clarification to show where consensus was reached for which specific topics amongst which stakeholders.

Comment CoT3: AWT is not defined in the draft BMAP and is open to various interpretations of effluent standards for WWTF and OSTDS. Therefore, we have provided new language to address this omission.

The term AWT does not have a specific definition that has been adopted by rule for application in this region and may be interpreted as wastewater treatment to a level less than 10 mg/L TN. Therefore, use of the term in this BMAP is in need of clarification. Several years prior to adoption of the TMDL, the City and Wakulla County set a precedent by limiting concentrations of TN to 3.0 mg/L to protect ground water quality and prevent further degradation to Wakulla Springs. Based on the precedent set for effluent disposal and to implement the BMAP and required TMDL reductions and to achieve the goal of TMDL implementation, the 3 mg/L TN limit should be adopted as the AWT standard.

Both FDEP (in this BMAP) and Wakulla County (in the Comprehensive Plan) have excluded Type III WWTFs (less than 100,000 gallons per day) from the 3 mg/L TN requirement and established 10 mg/L TN or less as the standard. To exclude such facilities in this BMAP would be contradictory to existing recommendations given in the Lombardo 2011 report, whereby it was determined that in order to address current and future loading, it would be essential that any

wastewater upgrades in the region of the PFAs would need to meet AWT, 3 mg/L TN. We propose this standard apply to all WWTFs and OSTDSs in the PFAs for this BMAP.

Throughout the document, this 3 mg/L TN standard has been emphasized in our edits for clarification of the AWT reference.

Comment CoT4: Including this language (taken from the Wekiva BMAP) more closely reflects the City's understanding of the basis for choosing the sufficiency of effort approach.

The sufficiency of effort approach is a notable deviation to the typical BMAP approach where specific load allocations are assigned. FDEP presented a sufficiency of effort approach to be used for this BMAP at the beginning of the process. The sufficiency of effort approach was selected by FDEP because assigning detailed allocations for nutrient loads to surface water and ground water in the primary spring contributing areas was deemed infeasible. By including the suggested language below, we believe clarity is given toward explaining the sufficiency of effort approach.

It is not currently feasible to assign detailed allocations for nutrient loads to surface water and ground water in the primary spring contributing areas. At present, the specific load reductions needed from projects benefiting the springshed were not calculated due to the complexities of fate and transport of pollutants in the springshed and the uncertainty associated with expected reductions from some measures.

Comment CoT5: The City requests the Department state the criteria used to evaluate whether each of the sources was sufficiently addressed. Please provide a comparison by stakeholder and by source.

To implement the intent of FWRA, Section 403.067 F.S., whereby the BMAP must equitably allocate pollutant reductions, some measures or criteria are needed to evaluate the stakeholder management strategies used in the sufficiency of effort approach. Appendix B of the BMAP states a BMAP shall establish a basis for evaluating plan effectiveness. A necessary component of the sufficiency of effort comparison (by stakeholder and by source), such as a summary table is needed to demonstrate and ensure the statutory intent of equitability is implemented by the BMAP.

Comment CoT6: Include a paragraph that acknowledges that the differences in timing and magnitude of load reduction achievements inherent in the adaptive management/sufficiency of effort approach can lead to inequities in the allocation of load reduction goals and that Department will include provisions to document reduction credits in the BMAP process.

Under the proposed iterative adaptive management/sufficiency of effort process, if water quality does not improve as anticipated, additional reduction strategies would be expected of

stakeholders in the future. Such an approach works when all sources (stakeholders) are at the same level of involvement and implementation. However, when water quality restoration actions are implemented primarily by a few or a single stakeholder, the proposed sufficiency of effort approach can lead to significant inequity among stakeholders. Equitable allocation of load reduction goals is required under the Florida Watershed Restoration Act and for this reason we believe that if the sufficiency of effort approach is to be used for this BMAP, then measures must be included in the BMAP to address this issue. The BMAP needs to incorporate documentation of stakeholder reductions when these can be legitimately quantified and through a reduction credit system it needs to provide safe harbor from additional reduction requirements until such time as other stakeholders achieved comparable proportional reductions.

The Department recognizes that due to the iterative nature of an adaptive management approach there is a potential for inequities to develop between stakeholders who have made substantial load reductions and those that will not do so until a subsequent phase. Because equitable allocation of load reduction goals is a requirement for all BMAPs under the Florida Watershed Restoration Act, the Department has incorporated measures to address the differences in timing and magnitude of load reduction achievements. The statutory provisions guiding BMAP development provide for assigning load reduction credits to dischargers that have implemented load reduction strategies. When a stakeholder undertakes projects or activities that can be substantiated as directly related to reducing TN in the UWR and said reductions can be reliably quantified, reduction credits will be given to the stakeholder through the BMAP process. Stakeholders with substantial credits will not be required to address additional load reductions until such time as other sources achieve comparable proportional reductions.

Comment CoT7: Because the City of Tallahassee has already achieved load reductions in excess of the TMDL percent reduction requirement and the uncertainty inherent in this BMAP, we cannot agree to be included in such commitments as described in this section.

The City can document it has exceeded the required percent reductions of the TMDL and has put forth much more than a “good faith effort” toward the TMDL goal. Therefore, to allow for “fair and equitable load reductions” the City, at this point, can only commit to the strategies provided in Table 13 and to stay engaged in the BMAP process, as substantive strategies are developed for other responsible stakeholders. It is not possible for the City to commit to establishing or implementing generalized programs as stated in the draft BMAP with respect to OSTDS management and wastewater strategies yet to be defined. Such programs will need to be vetted and proper approvals will be needed prior to making such commitments. The City will continue to work cooperatively with the Department and other stakeholders as they work toward achieving the TMDL goal and will participate in the initiative processes.

Comment CoT8 and Comment CoT9: How will strategies listed in the BMAP, which are not funded, be addressed in the future?

This section of the BMAP states that funding limitations do not affect management strategy implementation requirements. This statement seems to conflict with management strategies listed in Section 4.2, which are predicated on availability of future funding for implementation. For the strategies, which fall under this category, how will conflicts between funding availability and BMAP requirements be resolved and how would enforcement action be utilized for management strategies not implemented? If the strategies cannot be committed to without being conditioned upon funding, should they be removed?

Comment CoT 10: Include narrative from Hal Davis report(s), specifically regarding Spring Creek flow reversal and Wakulla Spring effects.

Hal Davis et al., with USGS has authored two papers, one ready for publication and the other published 2010, citation below, that discuss the Spring Creek flow reversal phenomenon and its relationship to Wakulla Spring flow and water quality conditions. A brief summary of the Spring Creek flow reversal should be included in this section (2.2) as the flow reversal phenomenon is also addressed in Sections 6.3.2 and 6.4 of this BMAP.

2010. Davis, H. et al. Nitrate-N Movement in Groundwater from the Land Application of Treated Municipal Wastewater and Other Sources in the Wakulla Springs Springshed, Leon and Wakulla Counties, Florida, 1966-2018.

Comment CoT11: Revise the typo specifying the sucralose detection limit per April 18, 2013 Technical Meeting Summary.

“Brian noted that the detection limit for sucralose is 0.01 ppb, so these tunnels have concentrations close to the detection limit. The A and B and D Tunnels had a sucralose concentration of 0.033 ppb and the B and C Tunnels have a concentration of 0.035 ppb, which indicates a human influence coming from the north and east.”

Comment CoT12: Revise this statement to reflect the language included in the April 18, 2013 Technical Meeting Summary.

The current language implies that sucralose detected in groundwater from B, C and D tunnels is wholly attributable to influence from the City SESF. We disagree with this assertion, and there is no inference in the record from the Technical Meeting Summary to support this implication. Other nitrate sources from wastewater loading were shown to be found north and east of the spring that also would contribute to the presence of sucralose in groundwater including a large number of OSTDS sites. Additionally, the levels of contribution of sucralose from one wastewater source compared to another have not been determined.

***Comment CoT13: This does not coincide with data presented in the William Leseman November 18, 2011 Final Report: Analysis of Historical Groundwater Nitrate Data in Leon County, Florida...* See Table 1, page 6. How was the concentration given in the BMAP statement validated?**

According to the Leseman report, data contained in the databases indicate that sufficient groundwater data exists to conclude that nitrate concentrations in the Floridan aquifer often exceed the 0.35 mg/l TMDL nitrate concentration. Long term trend data indicate that in many cases, this is the ambient background condition. The claim that nitrate does not naturally occur in Florida's ground water at concentrations higher than 0.1 mg/L may be debatable.

Comment CoT14 and CommentCoT17: For effective nitrate reductions and to meet the established planning goals for converting septic systems to various sizes of central wastewater facilities within the PFAs, it is essential that all facilities minimize their contribution of loading to Wakulla Springs. That approach would need to be achieved by applying the AWT 3 mg/L TN standard to all WWTFs and OSTDSs in the PFAs.

For the reasons stated in the narrative section for Comment CoT3 above, regarding establishing the AWT standard of 3 mg/L TN concentration and the application of that standard for all WWTFs and OSTDSs in the PFAs, we have revised this section to reflect the same standard for WWTFs in the PFAs. As stated in section 1.3.1.1 of the draft BMAP, it has been well established that the PFAs represent areas in the basin where the aquifer is most vulnerable to pollutant inputs, where there are the fastest groundwater travel times, and where there is a known connectivity between groundwater pathways and Wakulla Springs. As defined in the BMAP, all areas within the PFAs are subject to cause and or contribute to water quality impacts at Wakulla Springs. Based on this definition for the PFAs, it is not acceptable that owners of existing facilities would be given the opportunity to demonstrate a reasonable assurance there is not a contribution to the water quality violation at the Upper Wakulla River. Existing facility standards should be in keeping with ongoing WWTF permit requirements and the proposed BMAP requirements for new WWTFs. Setting the limitation for WWTF effluent concentrations at 3 mg/L TN prior to disposal is also consistent with language included in Table 10 of the draft BMAP. As a component of the tracking implementation (Section 6.1), the Department would work with existing WWTF owners to develop a plan for each of the affected facilities to be upgraded to AWT (3 mg/L TN) to prepare for implementation during the second phase of the BMAP.

Comment CoT15: Similar to the structure of previous sections within this chapter, include a description of the anticipated outcome of OSTDS source management.

Chapter 3, Pollutant Sources and Anticipated Outcomes is structured in such a way that each source is briefly described, and the anticipated outcome of source management is summarized. However, in the OSTDS section of this chapter, the outcome of source management strategies is notably absent. Please add narrative to describe anticipated outcomes from OSTDS source management activities.

Comment CoT16: Given that there are no direct contributions from MS4 areas to the Upper Wakulla watershed, the deleted sections of this narrative are superfluous to the discussion. Also, language has been added to this section to emphasize there are no direct contributions from the MS4 areas to the Upper Wakulla watershed.

As has been stated by the Department during the development of the TMDLs for the Upper Wakulla River and Lake Munson, the majority of the MS4 permittees are located in the Lake Munson watershed and are planned to be addressed during the implementation of the Lake Munson/Munson Slough TMDLs. However, due to karst features within the Wakulla basin, several management strategies for MS4 permittees to reduce pollutant loads are included as part of this BMAP.

Comment CoT18: The changes in Section 4.1.1. WWTFs Sufficiency, related to the City's TN loading, collectively identify the City's quantifiable TN reductions from the Management Strategy Tables and provide reduction credit, as provided in Section 1.3.3.

Refer to Comment CoT6 and to the City of Tallahassee Sufficiency of Effort and Pollutant Load Reduction Summary proposed to be included as an Appendix to this BMAP.

Comment CoT19: Consider requiring FDACS to provide nitrogen loading totals from agricultural application of fertilizer within the PFAs as part of the first phase of BMAP implementation.

As part of the FDACS BMP program, we believe data tracking should be included so that nitrate loading within the basin from agricultural producers can be tabulated and these data provided as part of the tracking implementation requirement for this BMAP.

Comment CoT20: Consider including action items to provide assurance that these initiatives will be pursued during the first phase of BMAP implementation. Suggest establishing this list in terms of priority and responsibility.

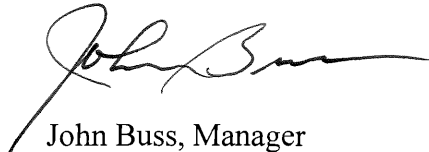
There are several items in the list of research studies that are of varying costs and benefit. We believe it would be useful going forward if costs associated with accomplishing the items on this list and priorities were assigned so that expectations could be more clearly defined for each. With guidance from the Department and input from the stakeholders, accomplishing this additional effort would be useful during future phases of the BMAP. As an example, the third item on the current list involves evaluating drinking water well data to identify wells with high nitrate concentrations and determining the sources of high concentrations. These data and evidence of high values already exist, and we are not aware of any investigation of the causes for these higher nitrate concentrations that may be a public health and environmental issue (Leseman 2011).

Mr. Steve Cioccia/FDEP
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The City appreciates the opportunity to provide these comments and FDEP's willingness to discuss our concerns throughout the development of this BMAP development. Should you have any questions regarding these comments, please feel free to contact Catherine Bray at 850-891-6853.

Respectfully submitted,

WATER RESOURCES ENGINEERING

A handwritten signature in black ink, appearing to read "John Buss", is written over the printed name.

John Buss, Manager

Attachment 1: Draft Wakulla Nutrient BMAP 091313 Cityrev1.docx

Attachment 2: City of Tallahassee Sufficiency of Effort and Pollutant Load Reduction
Summary_20131018.docx

cc: Rick Fernandez, Assistant City Manager
Mike Tadros, City, General Manager
Linda Hudson, Senior Assistant City Attorney
Winston Borkowski, Hopping, Green & Sams