



May 19, 2021

Avril Wood-McGrath
Division of Environmental Assessment and Restoration
2600 Blair Stone Road, MS 6511
Tallahassee, FL, 32399

Letter submitted electronically via: Avril.Wood-McGrath@FloridaDEP.gov

Re: Comments Regarding Triennial Review of State Water Quality Standards

Dear Ms. Wood-McGrath:

The Sanibel-Captiva Conservation Foundation (SCCF) and the Conservancy of Southwest Florida (Conservancy) are non-profit science-based organizations dedicated to the conservation and preservation of Southwest Florida's environment and coastal ecosystems. We appreciate the opportunity to review and provide comments on the Florida Department of Environmental Protection's (FDEP) Triennial Review of State Water Quality Standards. Our comments pertain to three specific issues: cyanotoxin standards, three proposed Site Specific Alternative Criteria (SSAC) for dissolved oxygen (DO), and the proposed revision to 62-4.242 regarding Outstanding Florida Waters (OFW).

Cyanotoxin Standards

SCCF, Calusa Waterkeeper, and the Center for Biological Diversity (CBD) petitioned FDEP in 2019 to consider and adopt protective cyanotoxin standards for Florida waters for both microcystins and cylindrospermopsin. Based upon the most recent Triennial Review webinar on May 5, 2021, and the associated materials posted by FDEP, the agency has declined to propose cyanotoxin standards as part of the Triennial Review. Given the widespread incidence and impacts of cyanobacteria in our region both on water resources, the environment, the economy, and human health, our organizations strongly urge the FDEP to adopt the 2016 Environmental Protection Agency (EPA) Draft recommended criteria. Please see the detailed comments in support of adopting the 2016 draft criteria that were submitted on behalf of SCCF, the Conservancy, Calusa Waterkeeper, and the Center for Biological Diversity on May 19, 2021.

Dissolved Oxygen Site-Specific Alternative Criteria

Our organizations are concerned with the methods used to develop the Site-Specific Alternative Criteria proposed for Daughtrey Creek, Popash Creek, and Cypress Creek within the Caloosahatchee watershed. Please see detailed report prepared by Dr. Paul Julian attached to this letter.

62-4.242 Outstanding Florida Waters

FDEP has proposed changes to 62-4.242 Outstanding Florida Waters (OFW) antidegradation permitting requirements (underlined below). The proposed changes are inconsistent with the intent of both the OFW statutory language, as well as the goals of Florida's water quality and ecosystem restoration programs. OFWs are afforded the highest protections due to their unique natural attributes and an environmental restoration and enhancement project, by definition, should protect from degradation any nearby or adjacent OFW(s) or provide an improvement in water quality conditions. Furthermore, given the widespread impairment of Florida's waterbodies, both OFWs and otherwise, any environmental restoration and enhancement project should be designed and permitted to not cause or contribute to violations of water quality standards, including the OFW anti-degradation standard.

The proposed language would codify and prioritize an overly broad definition of "restoration project" over the protection of other priority natural resources. Therefore, we request that FDEP withdraw the proposed language in 62-4.242.

(2) Standards Applying to Outstanding Florida Waters. (a) No Department permit or water quality certification shall be issued for any proposed activity or discharge within an Outstanding Florida Waters, or which significantly degrades, either alone or in combination with other stationary installations, any Outstanding Florida Waters, unless the applicant affirmatively demonstrates that:

2. The proposed activity of discharge is clearly in the public interest, and either:

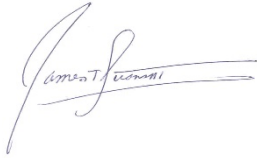
a. A Department permit for the activity has been issued or an application for such permit was complete on the effective date of the Outstanding Florida Water designation, or

b. The existing ambient water quality within Outstanding Florida Waters will not be lowered as a result of the proposed activity or discharge, except on a temporary basis during construction for a period not to exceed thirty days; lowered water quality would occur only within a restricted mixing zone approved by the Department; and, water quality criteria would not be violated outside the restricted mixing zone. The Department may allow an extension of the thirty-day time limit on a construction-caused degradation for a period demonstrated by the applicant to be unavoidable and where suitable management practices and technology approved by the Department are employed to minimize any degradation of water quality, or

c. The discharge or activity is part of an environmental restoration and enhancement project.

Thank you for your consideration of our comments on the Triennial Review of State Water Quality Standards. Please do not hesitate to contact us should you have any questions or wish to discuss.

Sincerely,

A handwritten signature in black ink, appearing to read "James Evans", with a long horizontal flourish extending to the right.

James Evans
Environmental Policy Director
Sanibel-Captiva Conservation Foundation
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A handwritten signature in black ink, appearing to read "Marisa Carrozzo", with a stylized, flowing script.

Marisa Carrozzo
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