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Eric Livingston, Chief
Bureau of Watershed Restoration
Florida Department of Environmental Protection
2600 Blair Stone Road (MS3510)
Tallahassee, FL 32399-2400

Re: Comments on draft Stormwater Quality Applicants Handbook

Dear Eric:

On behalf of Audubon I again thank you for providing the opportunity for Dr. Paul Gray and myself to serve on the Statewide Stormwater Technical Advisory Committee. We remain strongly supportive of DEP's efforts to craft a new stormwater rule that will reduce nutrient pollution from new developments and commend DEP and the cooperating agencies for extraordinary efforts in conducting this fruitful and useful process.

The following policy questions, in reflection of the overall process, have arisen and we bring four of them to your attention.

1) Redevelopment: There remains some confusion about the term "redevelopment." We understand that redevelopment projects in urban areas are easily defined, have inherent limitations, and support flexibility and exemptions for such projects. Conversely, when converting rural lands to development, fewer buildings may exist and the distinction between redevelopment and new development becomes blurred. Thus, we recommend that a definition of redevelopment include the word "urban," and include threshold conditions for the word urban (e.g., number of buildings per acre).

2) Performance Standards: Section 2.2.3 of the latest draft of the Handbook (page 6) states:

> "Discharges to Class 3 waters shall provide a minimum level of treatment equal to an 85% reduction of the average annual loading of total phosphorus from the project; or the post-development average annual loading of total phosphorus shall not exceed the loading from representative native landscapes (e.g., post=pre) which ever is less."

We strongly concur with using the nutrient loading of the native landscapes as the benchmark for water quality. However, this section also allows the applicant to treat only 85% of nutrient load predicted to result from the new project, allowing existing nutrient problems from a property with nutrient "hotspots" to continue without some remediation that could be built into the new stormwater system misses an opportunity to attain water quality improvements.

We recommend that water quality samples be taken prior to designing and permitting the stormwater system to determine the difference between existing conditions (excluding water moving onto the site from offsite) and native site conditions. If nutrient loads from the site exceed native conditions by some pre-determined margin, say 50%, then under the rule the applicant would be required to install a stormwater system to address some portion of the nutrient loads that would be expected to occur as a result of the existing conditions. We recognize that some sites may have existing nutrient conditions advanced enough that they cannot be quickly corrected. This problem could be accommodated with a treatment timeframe that leads to improved water quality over a period of time. Alternatively, a more aggressive treatment train might be required for sites with existing nutrient load problems.

3) Stormwater system management after construction: No matter how well designed a stormwater system, subsequent excessive nutrient addition by site managers or residents can overwhelm the treatment train, leading to water quality problems. We recommend that permitted stormwater systems contain a covenant governing management by future managers. Programs such as "Florida Friendly Landscaping" or similar, could be utilized much in the same way agricultural Best Management Practice (BMP) manuals are used to govern nutrient additions to properties in the Lake Okeechobee watershed.

   For example, Dr. Harvey Harper has demonstrated that wastewater reused for landscape irrigation can contain considerable nutrient loads. During the discussion at last TAC meeting, Dr. Harper seemed to indicate that that reused wastewater could complicate stormwater management. It seems obvious that the rule should take into consideration the possibility that nutrients introduced to a site through landscape irrigation with reclaimed wastewater may overwhelm the design capacity of stormwater systems permitted under the new rule. Hence the need for management restrictions similar to Best Management Practices.

4) Lastly, we reiterate our recommendation from our August 11, 2009 letter to the TAC, for developing a standardized system of follow-up monitoring. A system to monitor new developments to detect underachievement would add a useful "reality-check" to the permitting process, plus can be a valuable way of testing technologies and increasing the long-term effectiveness of the rule.

Again, we commend the FDEP for convening the Statewide Stormwater Technical Advisory Committee to vet the various ideas for improving stormwater management in Florida and request that these issues be brought to the TAC for consideration. We look forward to completing the process and bringing the rule to completion.

Sincerely,

Eric Draper
Deputy Director/Policy Director