



November 23, 2004

State Representative Jeff Kottkamp
Chairman, Lee County Legislative Delegation
3501 Del Prado Boulevard, Suite 305
Cape Coral, Florida 33904

Dear Representative Kottkamp,

Thank you for providing us with the opportunity to submit comments to the Lee County Legislative Delegation. The Southwest Florida Watershed Council is a grass-roots, multi-county coalition of individuals, organizations, agencies and businesses that have come together during the last three years to address issues affecting the Caloosahatchee and Big Cypress watersheds. The purpose of the Council is to ensure that the interests and concerns of all stakeholders are addressed, and that long term management strategies balance the needs of this region's growth and the natural systems upon which our economy and quality of life depend. At the October 21st meeting of the Southwest Florida Watershed Council, our members agreed that our priorities for the upcoming Florida Legislative Session fall into three major areas – water quality, water quantity and land acquisition. We would appreciate having a slot at one of your Delegation Meetings on December 8th to share information about our Council and these three priority areas.

Water Quality

As you know, the Florida Department of Environmental Protection (FDEP) has begun identifying polluted waters in our State, and has already determined that impairments exist in many water bodies, including a number here in Southwest Florida. Point source discharges are regulated under the Clean Water Act (CWA), but it has become clear that while every individual discharge into a water body may meet effluent discharge requirements, that water body may still fail to meet the standards defining good water quality. This circumstance has proved true even as the limits on point source discharges have become more stringent. There are other sources of pollution for which existing control measures are not adequate. According to the FDEP, these sources are associated with runoff and habitat destruction.

The United States Environmental Protection Agency (EPA) is requiring states to set priorities for cleaning up impaired waters by establishing a Total Maximum Daily Load (TMDL) for each one. Under the authority of section 303(d) of the CWA, the EPA requires that TMDLs be developed where technology-based effluent limitations or other legally required pollution control mechanisms are not stringent enough to protect water quality.

Florida has hundreds of impaired water bodies or water body segments that likely will have to be addressed through the development and implementation of TMDLs. The development of TMDLs will take place in the context of chapter 99-223, Laws of Florida, which details the process for listing impaired waters, determining which waters will be subjected to TMDL calculations, adopting by rule those calculations and associated allocations of pollutant loadings, and implementing the management strategies designed to reduce the loadings and enable the water body to meet water quality standards.

It is our hope that the State Legislature will embrace the application of a full range of regulatory and non-regulatory strategies to reduce pollution and improve the quality of Florida's water resources. While TMDLs will

The mission of the Southwest Florida Watershed Council is to protect, conserve, manage and/or restore the land and water resources of the Caloosahatchee and Big Cypress Watersheds. Through increased awareness, participation and cooperation among all stakeholders in consensus building, planning and decision making, we are working to meet the economic, natural and cultural needs for this and succeeding generations.

not be established for Southwest Florida water until later this decade, we hope that our Legislative Delegates will push for implementation of measures that will immediately address and begin to remedy the water quality problems that have already been identified on our region. By providing incentives and funding for programs that will reduce pollutant loads now, we will be able to prevent further declines in water quality, begin to bring impaired waters back to good condition and protect healthy water bodies. In fact, if enough proactive measures are taken and sound plans to address pollutant loads are made soon, we may even be able to provide reasonable assurance to the FDEP and reduce or eliminate the regulatory impacts of TMDLs. By funding the Watershed Initiatives of the South Florida Water Management District, by supporting the work of the Estero Bay Nutrient Management Partnership and by working with other entities such as local governments, the Southwest Florida Watershed Council, Charlotte Harbor National Estuary Program, Sanibel-Captiva Conservation Foundation and the Conservancy of Southwest Florida, our local Legislative Delegation can make significant strides toward improving and preserving the quality of the precious water resources in this region.

Water Quantity

The allocation and management of water resources are foremost in the minds of members of the Southwest Florida Watershed Council. While sometimes there is too much water flowing into our region as a result of rainfall and the management of Lake Okeechobee, at other times the flows in our rivers is much too low to support native flora and fauna. The management of water in Southwest Florida is a tremendously complex endeavor, and we are attempting to influence the process in a thoughtful, scientifically sound manner that will result in improvements to the system over the long term.

This year, we would like to see our Legislative Delegation lend its support and leadership to one particular aspect of the water quantity puzzle: the delivery of sufficient water during periods of low rainfall to protect the health of Southwest Florida's estuaries. It is imperative that the authority of the FDEP and the Water Management Districts (WMDs) in Florida to issue reservations of water be protected. Although the reservation of water is a tool that has not often been used in our State, it should remain available to the FDEP and WMDs. Under current law, the process to establish a water reservation is sound, and the process should not be changed in any way that would make it more cumbersome, or that would make a reservation of water dependent on capital works projects or other contingencies.

Because of increasing demands and current water shortfalls, we are deeply concerned that by the time water storage projects currently being planned through the Comprehensive Everglades Restoration Program are in operation, there may not be enough water available to reserve for the environment. Some watersheds may be over-permitted now, and there is concern that natural systems have not been protected in the consumptive use permitting process. We believe that there is a need to reserve water for the environment today -- before the design and construction of CERP water projects.

The Council has hosted a number of discussions since it was founded in 2001 which have focused on the Caloosahatchee Basin. One of our major concerns stems from the fact the Caloosahatchee River is not considered an "existing legal user" of water resources when it comes to the process of allocating water resources. It appears likely that the River, which is a tremendously important resource in Southwest Florida, will need extraordinary consideration in order to be guaranteed a flow regime which will support the ecological and economic needs of this region. To that end, on numerous occasions over the past two and half years we have requested of both the South Florida Water Management District (SFWMD) and the FDEP establish a statutory reservation for the Caloosahatchee River and its estuary. It is not just the natural system that will suffer if the resources provided by the Caloosahatchee and other coastal estuaries are destroyed. The economy of the region will also suffer. It has been estimated that the Caloosahatchee estuary alone contributes \$147 million to the regional economy.

Land Acquisition

The conversion of land from both natural states and agricultural uses is occurring rapidly in our region. While the development that is occurring is accommodating the large numbers of people who want to live and work in this region, it is also often negatively impacting the water resources that are needed to sustain both the human and non-human populations here. The acquisition of land into the public domain and its ensuing management as a public resource can serve many purposes. It can preserve important wetlands (and their critical role in filtering water) and aquifer recharge

zones, provide natural areas for water storage, protect habitat for native wildlife, boost economic development efforts by offering opportunities for ecotourism and nature-based business activities, and even protect the welfare of our citizens by buffering populated areas from major storm impacts and absorbing sheetflow that could otherwise lead to flooding. **We ask our Legislative Delegation to support the land acquisition projects currently underway in Southwest Florida (the Babcock Ranch and Corkscrew Regional Ecosystem Watershed lands, for example) and to ensure that State funding for these types of projects will be available in sufficient quantities in future years.** As available land becomes scarce, prices will skyrocket. Critical lands must be identified and secured immediately, and that creative financing options be employed by State and local governments, as well as by private land preservation entities. Our Legislators need to view land acquisition as an opportunity that will not last, and do everything in their power to protect the State's natural resource base by facilitating the purchase of natural areas.

Again, we thank you for allowing us to participate in the Lee County Legislative Delegation Meeting. If you have questions about the priorities of the Southwest Florida Watershed Council, please do not hesitate to contact me.

Sincerely,

Susan Brookman
Chairman

Copies: Lee County Legislative Delegation