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Ken Kirk

February 23, 2012

Lisa Jackson

Administrator

U.S. Environmental Protection Agency Headquarters

Ariel Rios Building

1200 Pennsylvania Avenue, N. W.

Mail Code: 1101A

Washington, DC 20460

Dear Administrator Jackson:

After many months of debate, scientific study and careful consideration by Florida's environmental regulators, the Florida Legislature has unanimously approved the submission of new state rules to protect the state's many waterbodies from the harmful effects of nutrient enrichment.

The National Association of Clean Water Agencies (NACWA), which represents the interests of the nation's publicly owned wastewater treatment agencies, including 12 utilities in Florida, urges you to expeditiously approve these new Florida rules in their entirety.

The new state rules, which have been approved by the Florida Department of Environmental Protection and the Florida Environmental Regulatory Commission, will do an outstanding job protecting Florida's lakes, streams and springs from the harmful effects caused by excess levels of nitrogen and phosphorus. These state rules are comprehensive and stringent. Importantly, the state rules carefully direct limited resources to reduce nutrient loads as needed to protect Florida waters from harmful imbalances of flora and fauna. This feature of the Florida program squarely addresses the flaw in EPA's criteria for flowing waters that led the Federal District Court in Tallahassee to invalidate that portion of EPA's final rule establishing federal nutrient criteria for the state (*75 Fed. Reg. 75762*; December 6, 2010).

Consistent with the Agency's March 16, 2011, Memorandum "Working in Partnership with States to Address Phosphorus and Nitrogen Pollution through Use of a Framework for State Nutrient Reductions" – Florida has done everything that has been asked of it by EPA. The state's leaders have found a Florida-driven solution to preserving its water resources while protecting household budgets

at a time when so many communities in Florida and across the country still struggle with a difficult economy. In fact, this rule will position Florida as one of the top leaders among the states on the issue of nutrients.

Given the recent federal court ruling, it is critical that EPA act now to put these Florida-written rules in place. The full implementation of the Florida rule that is before you now establishes tough standards that will accomplish the same goal as the EPA rules. In fact, in a November 2, 2011, letter from Nancy Stoner, Acting Assistant Administrator for Water, EPA provided a preliminary conclusion that it would be able to approve the rules under the Clean Water Act. Additionally, EPA approval of the Florida rules will send an important signal nationally about the appropriate lead role for states with delegated authority under the Clean Water Act in developing water quality criteria and standards.

Florida Governor Rick Scott signed legislation unanimously approved by the Florida House of Representative and the Florida Senate to move this process forward and bring this issue to closure. NACWA urges the Agency to recognize the significant efforts Florida has undertaken to ensure that it can protect the state's waters in a way that is best for Florida and its citizens and approve the Florida rules in their entirety.

Sincerely,

A handwritten signature in black ink, appearing to read "K Kirk". The signature is stylized with a large "K" and a cursive "Kirk".

Ken Kirk
Executive Director