



UNITED FOR A HEALTHY GULF

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Stephanie Sanzone
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RE: Comments to EPA SAB on Florida Numeric Nutrient Criteria for Florida's Estuaries, Coastal Waters, and Southern Canals

Dear Ms. Sanzone,

Please accept the following comments to the US Environmental Protection Agency (EPA) Florida Estuarine Numeric Nutrient Criteria Scientific Advisory Board (SAB). I am writing on behalf of the Gulf Restoration Network, an organization dedicated to the restoration and protection of the Gulf of Mexico for this and future generations. We have offices in New Orleans and Florida, and have members in all of the Gulf States, as well as across the nation. In addition to the following comments, we concur with the comments submitted by the Conservancy of Southwest Florida and the Clean Water Network of Florida (comments submitted December 1, 2010).

We have long been advocates for numeric nutrient criteria in Gulf States because of the detrimental impacts nitrogen and phosphorus pollution have on the freshwater, brackish, and saline systems that are vital to the cultures, ecology, economy, and way of life of the Gulf. We believe that if protective numeric nutrient criteria are not set for Gulf States, we will only see the increase of nitrogen and phosphorus pollution-caused impacts to our waters. With this in mind we are supportive of EPA moving forward with the development of numeric nutrient criteria for Florida's estuaries, coastal waters, and southern canals. With that being said, we would like to take this opportunity to express the following comments and concerns regarding the development of these criteria.

1. Downstream protective values are necessary

As the SAB knows well, and expressed in their preliminary draft, nutrient pollution in a stream or river can have different impacts than when those same nutrients reach coastal waters and estuaries. This is why these downstream protection values (DPVs) are necessary to ensure upstream waterbodies are appropriately regulated to control the pollutants which would cause downstream impacts.

These DPVs should not be deferred, assuming that TMDLs can fill this role in allocating loading reductions from upstream sources. In fact, this is what we *do not* want. TMDLs are done for waterbodies that are already impaired, while DPVs could function to *avoid* impacts to downstream waters. TMDLs are an important tool; however they would do not and would not act as a substitute for DPVs.

2. Criteria must be expressed as concentrations

From a regulatory standpoint, it is difficult, if not impossible to enforce a mass loading from a pollution source. Most discharge permits are written using concentrations, as these can be measured relatively quickly, such as with a grab sample. We encourage the SAB to recommend concentration criteria, in addition to loading criteria (if deemed appropriate).

3. Dissolved Oxygen is not necessarily a surrogate for “balanced faunal communities”

We suggest that dissolved oxygen criteria not be used as the only endpoint for the derivation of numeric nutrient criteria. While DO can be an indicator of nutrient enrichment, depending on when you measure DO, both a high and low DO can indicate nutrient problems. Likewise a simple DO criterion should not be used as the sole indicator of a “balanced faunal community.”

4. Numeric Nutrient Criteria in South Florida inland flowing waters

While listening to the SAB conversation on February 7, 2011 during the public teleconference, it sounded like some panel members were suggesting that ambient nutrient criteria within canals might not be necessary, since they are manmade, and are used for water conveyance. We respectfully suggest that numeric nutrient criteria are necessary in these waters, as they will impact the life that exists in these canals. Further, the goal of the Clean Water Act is to “restore and maintain the chemical, physical, and biological integrity of the Nation’s waters.” We request that the SAB not only look at the current functions and status of these canals, but what life they could support if the habitat were restored/improved. Further, these canals may drain into natural waterways that also maintain marine life.

5. Seasonality

An issue that we saw in the numeric nutrient criteria for lakes and flowing waters of Florida is the lack of frequent sampling to determine compliance with numeric nutrient criteria. For example, in the rule regarding lakes and flowing waters of Florida, the standards allow very high levels of pollution for substantial periods in lakes and streams as long as the yearly geometric average stays below the standard. Essentially, these waterbodies can exceed their criteria for significant portions of the year and still not be

considered in violation. To make this point clearer, if the temperature in my house soared above 150° during the summer but averaged an annual temperature of 68°, I would be seriously injured, if not dead. Seasonality is important, especially when you are looking at response variables like chlorophyll a, where levels can be significantly lower in the winter. Simply averaging winter and summer levels is not appropriate for the rivers and streams criteria, and would not be appropriate for the criteria currently under the charge of the SAB.

Thank you for the opportunity to express our thoughts and concerns, as well as the opportunity to listen to your deliberations at during the public meeting. We request a response from the SAB in writing regarding these comments.

Please feel free to contact us if you have any questions.

For a healthy Gulf,

Matt Rota
Science and Water Policy Director

Cc: Linda Young, Clean Water Network of Florida
Jennifer Hecker, Conservancy of Southwest Florida