



STATE OF FLORIDA

BILL McCOLLUM
ATTORNEY GENERAL

November 13, 2009

Secretary Michael W. Sole
Department of Environmental Protection
3900 Commonwealth Blvd.
Tallahassee, FL 32399-3000

Dear Secretary Sole,

This letter is to request that you provide the Governor and Cabinet a status report at the upcoming Cabinet meeting, on the status of the consent decree currently before the United States District Court, Northern District of Florida regarding the application of numeric nutrient criteria in the state of Florida under the Federal Clean Water Act. The suit alleges that the EPA by its own actions has determined that numeric nutrient water quality standards in Florida are necessary, yet has failed to perform its non-discretionary duty to propose these criteria.

While the Department of Environmental Protection did not intervene in this lawsuit, numerous other intervenors have provided the court with information in preparation for a hearing on the proposed consent decree scheduled for November 16th. Additionally, my office is monitoring the recently filed suit by the Florida Water Environment Association Utility Council against the EPA raising the EPA's failure to perform a proper necessity determination and failure to observe the appropriate administrative procedure on this issue.

As a member of the Board of Trustees of the Internal Improvement Trust Fund and as the Attorney General on behalf of all the residents of Florida, it is imperative that the people of our state be protected by the best water quality standards possible. However, Florida should not be singled out in a manner that may ignore the vastly diverse and unique Florida eco-systems and waterways, the potential economic impacts to Florida's residents, and the significant efforts of the Department in establishing the scientific evidence specific to our state waters. The Department should have been allowed to complete the process of developing nutrient criteria for Florida as a matter of federalism and in keeping with the intent of the Clean Water Act to have states do the standard setting and enforcement.

Your update on these issues and options available to our state going forward would be helpful.

Sincerely,


Bill McCollum