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Mr. Noah Valenstein, Secretary  
Department of Environmental Protection  
3900 Commonwealth Boulevard M.S. 49  
Tallahassee, FL 32399

June 5, 2018

Subject: Concerns with BMAPs

Dear Mr. Valenstein:

The “Florida Springs and Aquifer Protection Act” of 2016 sets a twenty-year target for restoration of twenty-four impaired Outstanding Florida Springs (OFS). Your department is responsible both for laying out the clean-up strategies, through thirteen Basin Management Action Plans (BMAPs), and for assuring that these strategies are in fact implemented by a wide range of stakeholders. Given the degraded state of most OFS, this responsibility is one of the most important challenges facing the Florida Department of Environmental Protection (FDEP). It also provides a once-in-a-lifetime opportunity for leadership to initiate springs restoration on a regional scale.

The Florida Springs Council (FSC) is comprised of forty-five member organizations from all over the State working together to promote the restoration, preservation, and protection of Florida’s springs. Many of FSC’s member organizations have been active participants in the BMAP process and have provided extensive written and oral comments to FDEP over the past two years. Many have expressed their view that the draft BMAP for their local spring(s), if approved, will not in fact lead to a satisfactory or timely restoration of water quality as required by law.

FSC will continue to monitor springs BMAPs both before and after the approval deadline of June 30. If substantial changes are not made to many of these drafts, however, it is possible – perhaps even likely – that one or more of these BMAPs will be administratively challenged. Any decision to challenge will ultimately come down to an assessment of whether the BMAPs meet the requirements of the Springs Protection Act – that is, whether an individual BMAP lays out a path providing a credible prospect of meeting the TMDL goal within twenty years.

Our concerns with these BMAPs are both procedural and substantive.

First, while we recognize the inherent challenges associated with processing 13 BMAPS simultaneously, this process for review, comment, and adoption has been far less than what we have come to expect in the normal rulemaking process. It is unfortunate that many of the draft

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BMAPs were only released in the final weeks before the legislative deadline (which follows passage of the Act by nearly 30 months) and that none of the 13 BMAPs will be approved until the final month before the deadline. Phased release and subsequent approval of draft BMAPs would have provided affected parties more time for analysis and dialogue. Second, until a week ago, FDEP's web-page for BMAPs contained no link to the 13 draft BMAPs or to the technical analyses underlying these BMAPs. Indeed, even today many of these draft BMAPS and supporting documents are not included on the department's BMAP web page. Apparently much of this information was hidden away on a "File Transfer Protocol" site on the Office of Technology and Information Services web site which was unknown to most FSC members and other stakeholders. This lack of transparency has been an ongoing frustration to many of us.

Our substantive concerns with these draft BMAPs vary with the springshed, but there are a number of common themes:

Compliance with the law. The Springs Protection Act lays out specific requirements for what must be included in springs BMAPs – for example, “a list of all specific projects and programs identified to implement a nutrient total maximum daily load”, including a priority ranking, a cost estimate, and a nutrient load reduction target for each. This requirement is not met in many of the draft BMAPs.

Overly optimistic assumptions. Nitrogen-reducing benefits from many listed projects, particularly those critical to meeting the 20-year targets, are exaggerated.

Lack of specificity. In several springsheds, pollution from septic tanks is the primary source of nitrate. Strategies for dealing with this issue are incomplete or overly optimistic, or both.

Poor documentation. Research citations justifying gains from agricultural Best Management Practices are poorly documented and do not support the nitrogen removal estimates in various spring BMAPs.

Nitrogen Source Information Loading Tool. NSILTs are being used to estimate the amount of nitrogen which various sources are contributing to groundwater but are not being used to calculate how much nitrogen must actually be reduced at the land surface. As a result, estimates of the amount of nitrogen that must be reduced to reach the 20-year goals are significantly underestimated. References to calculation of average attenuation factors are not adequately explained and appear to be different in various draft BMAPS.

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Growth. The BMAPs generally fail to account adequately for future growth in resident/tourist populations and in agricultural activity.

We recognize that, in mandating the restoration of 24 impaired springs, the legislature has given FDEP a very challenging task. FSC acknowledges the excellent cooperation that we have received from many dedicated FDEP employees in the course of our interactions on these BMAPs. We also appreciate your personal commitment to meet with stakeholders and to hear our concerns. Nevertheless, the intent of the law is clear, and we intend to be vigilant and insistent that it be carried out faithfully. FSC and the undersigned organizations urge you, in the weeks remaining before the June 30 deadline, to take our concerns into account and to adjust the springs BMAPs appropriately. All of us are available in the short amount of time remaining to assist with the work necessary to transform these BMAPS into blueprints for effective restoration of our springs.

Sincerely,



Dan Hilliard, president  
Florida Springs Council

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Vivian Young, President

Alachua Audubon Society  
Debbie Segal, President

Big Bend Group Sierra Club Group  
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