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October 30, 2017

Kevin Williams  
Environmental Consultant  
Division of Environmental Assessment and Restoration  
Florida Department of Environmental Protection  
[2600 Blair Stone Rd.](#), MS 3565  
Tallahassee, FL 32399

Re: Comments on the Draft 5-Year Review of the Caloosahatchee Estuary Basin Management Action Plan

Delivered by electronic mail.

Dear Mr. Williams:

Thank you for the opportunity to provide comments on the Draft 5-Year Review Caloosahatchee Estuary Basin Management Action Plan. The succeeding comments should be considered in conjunction with the comments I provided to you on October 24, 2017.

1. TN load reduction credits for BMAP projects CC-10 and CC-11 have been inappropriately credited to the 5- Year total. CC-10 represents a 60-year-old, "pre-permitting" water conveyance system that was not designed to meet modern wet detention standards. Yet, this freshwater system is presumed through the BMAP crediting process to achieve TN reduction performance criteria as if it were designed with current criteria to meet FDEP standards (Chapter 62-347, F.A.C) and set forth in the FDEP Stormwater Quality Applicants Handbook. TN load reduction credits for both of these projects yield a net 35,328 lbs.TN/yr load reduction credit for the BMAP resulting from only a change in assumptions about stormwater performance criteria during the first six months of the 5th year of the plan. Both projects were listed as complete until the 2017 reporting period but due to the change in assumption about treatment capacity, in the final year, the TN load reduction credits attributed represent about 35% of cumulative TN load reduction credits for all entities since the BMAP was implemented in 2012. This 5<sup>th</sup> year increase for the City of Cape Coral represents 96% of Cape Coral's total TN reduction since plan implementation. TN reduction credits for projects CC-10 and CC-11 should not be included in the 5-year summary until the projects can be evaluated to confirm net TN change.

2. The context of BMAP TN load reduction progress also needs to be part of the narrative on the 5-Year summary progress report indicating that the BMAP TN reduction goal is based on 2004 land use, eight years prior to BMAP implementation. Without this context, all the additional land use intensification and TN loading associated with it since 2004 is completely discounted when considering actual BMAP progress.
3. Of the total TN credits proposed in this 5-Year summary (including projects CC-10 and CC-11), 55% were credited to projects dating before BMAP implementation in 2012 and as early as 2001. A better understanding of BMAP progress could be achieved more explicitly in the 5-Year review by indicating the proportion of credits earned since implementation starting in 2012. For example, in Fig. ES-1, and Tables 5-7. It's possible to derive the difference between pre and post implementation credit totals using information from Appendix A but not emphasizing this in the report creates a deceptive assessment of post implementation progress and as inappropriately inflated by projects CC-10 and CC-11.
4. Many or most of the Tier I water quality stations used for TN trend analysis do not show statistically significant trends for TN concentration. This result would have more likely indicated increasing trends if the analysis had started for data earlier than 2007. The TMDL was determined from 2004 land use and became the basis for the BMAP load reduction goals and FDEP gave load reduction credits dating back to 2001. As such, it is hard to understand why FDEP would only start the trend analysis with 2007. It was stated at the October 18, 2017 public BMAP meeting that TN data prior to 2007 does not exist. This is incorrect. Most of the Tier 1 stations have monthly data starting in the early 1990s. Whatever screening FDEP did to achieve eligible data status needs to be more precisely indicated in the summary in addition to what method was used to fill data gaps. Also, much of the Lee County CES station data appear to be left out of the trend assessment.
5. The purpose of the BMAP is to reduce loading of TN to the Caloosahatchee Estuary to achieve the TMDL. There is no TN loading data in any context provided in this report. When several stakeholders inquired about the lack of loading data at the October 18, 2017 public meeting on the 5-Year BMAP summary, the FDEP response was that there was inadequate flow measuring stations in the basin to estimate loading. This is ironic in that FDEP defunded much of the USGS contracted flow monitoring in 2012 just as the BMAP was being implemented. If flow data are not available then FDEP should have modeled TN loading. If the FDEP modeling was adequate to determine the TMDL, why is it inappropriate to gauge progress toward a loading reduction with the same model? Modeled loading as a minimum should have been integrated from the first year of BMAP implementation annually especially since rainfall data for the region is robust.
6. BMAP project crediting should be more comprehensive. For example, Cape Coral as one example is importing treated wastewater by contract and surface water from outside it's BMAP jurisdiction for lawn irrigation purposes. Importing large volumes of water for application to the BMAP basin landscape for irrigation will yield a net increase to impaired waters within Cape Coral and potentially to impaired receiving waters. These net increases resulting from imported water from basins outside Cape Coral were not credited or even mentioned in the 5-year summary.
7. Section 1.1.1 of the 5-Year Draft mentions NPDES MS4 permittees, and states that " These permittees are treated as point sources under the TMDL Program". However, none of the Lee

County or co-permittee's MS4 annual reports I have seen indicate a requirement to reduce TN by 23% as required by the TMDL. In fact there is no indication in any of the NPDES MS4 reports that a net reduction in TN has been achieved. The lack of integration of MS4 goals and coordination with the TMDL requirements (Caloosahatchee Estuary TMDL) stemming from Clean Water Act authority for Waters of the U.S., was outlined in a letter and document from Southwest Florida Stakeholders sent to FDEP on August 19, 2015 (attached as part of the email message delivering this letter). Apparently little if any progress or compliance is occurring in this regard and may reflect the relatively poor progress of post BMAP implementation (25% toward TMDL compliance including net reduction from projects CC-10 and CC-11), especially since additional loading from 2004 is not included and potentially reducing the actual rate of progress indicated in the report. This is important since no other NPDES point sources such as NPDES wastewater sources in the basin have been targeted for BMAP TN load reduction allocations. Other BMAPs have targeted wastewater sources with appropriate load reduction but not the Caloosahatchee Estuary BMAP. Ironically, the Fort Myers wastewater treatment facility, which discharges directly to the Caloosahatchee Estuary, has been cited as deficient during past reporting periods that may reflect increased usage resulting from a growing population and an aging facility.

Again, thank you for the opportunity to provide comments. I hope you will consider changes to the 5-year BMAP draft that reflect the specifics of these comments.

Sincerely,

A handwritten signature in black ink, appearing to read "John R. Cassani". The signature is fluid and cursive, with a prominent initial "J" and a long, sweeping underline.

John Cassani  
Calusa Waterkeeper