

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF FLORIDA  
TALLAHASSEE DIVISION

FLORIDA WILDLIFE FEDERATION,  
INC.; et al.,  
Plaintiffs,

vs.

CASE NO. 4:08-cv-00324-RH-WCS

LISA P. JACKSON, Administrator of the  
United States Environmental Protection  
Agency; and the UNITED STATES  
ENVIRONMENTAL PROTECTION  
AGENCY,

Defendants.

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**DECLARATION OF JAMES D. GIATTINA**

I, James D. Giattina, declare that the following statements are true and correct to the best of my knowledge and belief and are based on my personal knowledge, information contained in the records of the United States Environmental Protection Agency (“EPA” or “the Agency”), and information supplied to me by current EPA employees under my supervision.

1. I am the Water Protection Division Director of the Region 4 Office of the EPA. I have held this management position since October 2002. I have served in other senior management positions at EPA since 1996.
2. As Director of the Water Protection Division of EPA Region 4, I am responsible for directing and managing EPA's process to review and approve or disapprove new or revised water quality standards adopted by states and submitted to EPA under CWA section 303(c) and 40 CFR part 131.
3. As Director of the Water Protection Division of EPA Region 4, I am also involved in EPA's efforts to develop numeric nutrient water quality criteria for waters in Florida under the schedule provided for in the Consent Decree entered by this Court on December 30, 2009 and in subsequent orders.
4. I make this Declaration in support of EPA's motion for an extension of the deadlines relating to the issuance of proposed and final numeric nutrient criteria for flowing waters outside South Florida and downstream protection values ("DPVs") for unimpaired lakes ("the Phase I remand rulemaking"), and proposed and final numeric nutrient criteria for Florida estuaries, coastal waters, and flowing waters in South Florida ("the Phase II rulemaking").
5. Under the Consent Decree, EPA is currently required to sign proposed regulations setting forth numeric nutrient criteria for the Phase I remand

rulemaking by November 30, 2012, and to sign a notice of final rulemaking by August 31, 2013.

6. Under the Consent Decree, EPA is currently required to sign proposed regulations setting forth numeric nutrient criteria for the Phase II rulemaking by November 30, 2012, and to sign a notice of final rulemaking by September 30, 2013.
7. On June 13, 2012, Florida's Department of Environmental Protection (FDEP) submitted to EPA for review and approval under CWA section 303(c) new or revised water quality standards for nutrients.
8. FDEP's new or revised water quality standards include numeric nutrient criteria for lakes, springs, some flowing waters, some estuaries, and some coastal waters. FDEP's new or revised water quality standards do not cover all of the waters that EPA concluded in its January 14, 2009 Determination need numeric nutrient criteria and for which EPA is obligated to propose numeric nutrient criteria pursuant to the Consent Decree in this case. Specifically, FDEP's rule does not include new or revised water quality standards for all flowing waters, estuaries, or coastal waters.
9. EPA is nearing completion of its review of FDEP's new or revised water quality standards and expects to approve them under CWA section 303(c) in the near future.

10. EPA and FDEP have had recent constructive discussions, in which EPA has learned of FDEP's tentative plans to adopt new or revised water quality standards relevant to the control of nutrients for additional waters, not just the remaining estuaries (for which FDEP has adopted a schedule in rule to adopt numeric nutrient criteria) and some South Florida flowing waters.
11. Prior to these recent discussions, EPA was not aware that FDEP had tentative plans to adopt new or revised water quality standards relevant to the control of nutrients for additional waters other than the remaining estuaries and some South Florida flowing waters.
12. EPA is requesting a 120-day extension (until March 29, 2013) to sign the Phase I remand and Phase II proposed rulemakings to allow the Agency to continue to discuss with FDEP its tentative plans to adopt new or revised water quality standards relevant to the control of nutrients for additional waters other than the remaining estuaries and some South Florida flowing waters. EPA could then reflect this new information in its proposed rulemakings for Phase I remand and Phase II, and take comment on if and how FDEP's plans would factor into EPA's final action on those rules.
13. We are currently engaged in constructive discussions with FDEP regarding how to ensure Florida's waters have adequate water quality standards for




nutrients. Those discussions would inform our joint efforts to address nutrient issues for these waters consistent with the Clean Water Act.

14. Due to the fact that EPA only recently learned of FDEP's tentative plans to adopt new or revised water quality standards relevant to the control of nutrients for additional waters beyond the remaining estuaries and some South Florida flowing waters, EPA did not file this motion at an earlier date.
15. While EPA is requesting a 120-day extension for good cause, EPA is prepared to sign both the Phase I remand and Phase II proposals by the current Consent Decree deadline of November 30, 2012 if the court does not grant EPA's motion by that date.

I declare under penalty of perjury that the foregoing is true and correct, based on my personal knowledge and on information provided to me by employees of the EPA under my supervision.

Dated: November 21, 2012

  
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James D. Giattina  
Director, Water Protection Division  
United States Environmental Protection Agency,  
Region 4