

Water lawsuit could punish Florida with unworkable regulations

By Virginia Wetherell

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If events stay on their present course, the federal government could soon hit Florida with unworkable new water regulations that could impede our economic recovery, force Florida businesses to cut jobs, and increase the price of utilities, food and other necessities for Florida businesses, families and consumers.

This crisis stems from a lawsuit filed by the group EarthJustice, which is demanding stringent new one-size-fits-all standards governing the level of nutrients such as nitrogen and phosphate in all Florida waterways. Driven by litigation rather than sound science, these regulations could be imposed as early as October 2010 – disrupting Florida’s existing science-based process for protecting and restoring the quality of Florida’s waters.

This is particularly distressing because Florida has long been a national leader in water quality thanks to the Florida Department of Environmental Protection’s model Total Maximum Daily Loads program to protect clean lakes and rivers. For nearly 10 years, Florida’s TMDL program has spent tens of millions of dollars to scientifically evaluate the quality of Florida’s surface waters and promote the mechanisms necessary to clean up pollution.

This process is lengthy and time-intensive because of the state’s vast, varied and unique ecosystems – ranging from the Everglades and tropical mangrove estuaries in the South to cold springs, sinkholes and forest streams in the North. Thanks to this hard work, Florida is responsible for more than a third of all the nutrient-related water-quality samples in the national water quality database.

Unfortunately, this same hard work to improve our scientific knowledge about the health of our state’s waters has made it easier for EarthJustice to file their lawsuit to punish Florida with federal restrictions that will be so stringent as to be impossible to meet.

According to a report by the Environmental Protection Agency’s Inspector General, “Costs to implement the standards will primarily be borne by individual citizens and businesses... For example, if new/revised standards result in stricter discharge limits for wastewater treatment plants, these plants may need to increase their user fees to support the construction of nutrient removal technology, which can run in the millions of dollars.”

Indeed, the economic impact of the proposed federal restrictions is vast and could impact every major sector of Florida industry. Waterbodies mandated by development rules, such as drainage facilities, stormwater ponds, agricultural holding ponds and flood protection systems, could be required to make

enormous investments in water quality technologies in order to continue to operate.

This could hit local governments especially hard in terms of paying for massive retrofits to drainage facilities and public utilities – retrofits for which there is no planned budget. Palm Beach County utilities estimate that just to continue to store their reclaimed water could cost as much as \$125 million, and Panhandle utilities have preliminarily estimated that increased wastewater treatment costs could range from \$4 to \$8 per gallon.

Florida's finances – for its state and local governments, for its businesses and for its families – simply are not capable of meeting these obligations without suffering severe hardship during this deep recession.

Florida is working diligently to develop the correct science for protecting our diverse water bodies, and a federally mandated court process that interrupts that process is not likely to produce good science. That is why it does not make sense for federal regulators to punish a responsible state like Florida with unfair and unaffordable restrictions.

If anything, such actions make other states less likely to invest in more aggressive efforts to improve their own water quality if they see a national leader such as Florida punished without regard to its record of responsibility.

Virginia Wetherell served as Secretary of Florida's Department of Environmental Protection from 1991 to 1998.