

15. **COUNCIL MEMBERS' REPORT**

- a. Letter dated March 05, 2010 to Governor Crist regarding opposition to State Fertilizer Preemption of Local Ordinance as the Regional Planning Council (RPC) chairman



Southwest Florida Regional Planning Council

Serving Charlotte, Collier, Glades, Hendry, Lee and Sarasota Counties

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March 5, 2010

The Honorable Charlie Crist
Governor, State of Florida
The Capital
400 South Monroe Street
Tallahassee, Florida 32399

Re: Opposition to State Fertilizer Rule Preemption of Local Ordinances

Dear Governor Crist:

Last year, a statewide Fertilizer Rule was adopted that provides a baseline for the regulation of residential use of fertilizer. The primary objective of the rule was to reduce the water quality impacts associated with fertilizer usage. Unfortunately, the rule does not appear to be stringent enough, and therefore does not do enough to protect water quality in South Florida, particularly in Aquatic Preserves, coastal estuarine waters, and non-manmade wetlands and water bodies that have naturally low levels of nutrients.

Recently, we were made aware of a legislative proposal to preempt local governments' authority to protect these valuable resources. Barriers to local governments' ability to adopt fertilizer rules stricter than the State's standard are being considered. This preemption rule adds another level of government into a local process and creates additional financial burdens on the essential implementation of the Impaired Waters Rule. It also appears to be another unfunded mandate, because it will require more steps for local governments to go through before they are able to adopt a fertilizer ordinance that protects water quality within their watersheds. Finally, the proposed rule change does not seem to grandfather in existing local government fertilizer rules that were approved prior to the proposed rule change.

Within the Southwest Florida Regional Planning Council area, local governments consider the regulation of residential fertilizer to be one of the most important tools available to them to meet water quality standards in water bodies that have Total Maximum Daily Loads (TMDLs) imposed. There is now great concern that this tool may be made unavailable if this "Fertilizer Glitch Bill" passes in its current form.

TO: The Honorable Charlie Crist
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RE: Opposition to State Fertilizer Rule Preemption of Local Ordinances

Fertilizer regulations should take into account the impacts on water quality from excess nutrients in the misapplication of fertilizers. Florida Department of Environmental Protection (FDEP) and the South Florida Water Management District (SFWMD) are excellent sources for solid scientific information on these issues. Any improvements on fertilizer regulations should be consistent with the Southwest Florida Regional Planning Council Fertilizer Resolution, which has gone through an extensive scientific vetting process.

This document can be located at:
(http://www.swfrpc.org/content/LWCW/Final_Fertilizer_Resolution_031507.pdf).

For the State of Florida to even consider preempting local communities from establishing their own standards borders on infringement of local home rule. One statewide standard for fertilizer control will not work because every locality has its own unique water quality needs. Florida's own TMDL rules develop stormwater permitting requirements that are very location specific, focusing on area by area, watershed by watershed, stream by stream and estuary by estuary to determine precise regulatory requirements that will best bring water quality levels, including nutrients, to an acceptable standard. The cost to *prevent* fertilizer pollution is far less than to clean up our waters *after* the fact.

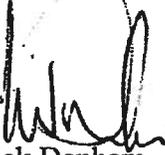
The Southwest Florida Regional Planning Council has unanimously voted to oppose any amendments to the existing fertilizer regulations that would pre-empt local governments' oversight and regulation of fertilizers and thus impair the implementation of adopted local government fertilizer regulations and ordinances.

We live in a state surrounded by and dependent on water, where pristine beaches and estuaries are among our greatest assets. The health and economy of Southwest Florida depends upon the quality of the waters where our citizens fish, recreate and live. Now is the time to address water quality as our priority, not to weaken the protections we have undertaken. Our environment, tourism, economy and our very way of life are at stake.

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We are looking to your office for the leadership required to protect and support fertilizer regulations that improve, not impair, water quality and truly protect Florida.

Sincerely,
Southwest Florida Regional Planning Council



Mick Denham
Chair

Cc: Lt. Governor Jeff Kottkamp
FL Representative Gary Aubuchon, 74th District
FL Representative Keith Fitzgerald, 69th District
FL Representative Tom Grady, 76th District
FL Representative Denise Grimsley, 77th District
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FL Senator Nancy Detert, 23rd District
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Speaker of the House Larry Cretul
Senate President Jeff Atwater
Jerry Brooks, Director, FDEP-Environmental Assessment & Restoration
Fred Dickinson, Esquire, Dutko Worldwide
Scott Dudley, Senior Legislative Advocate - FLC