

Office of Inspector General  
U.S. Environmental Protection Agency  
Ariel Rios Building  
1200 Pennsylvania Avenue, N.W. (2410T)  
Washington, DC 20460

August 14, 2008

**RE: Request for Investigation and Performance Evaluation**

Dear Office of Inspector General:

We are writing to you on behalf of Public Employees for Environmental Responsibility (PEER) and the Council of Civic Associations (CCA) to request that your office investigate and evaluate the administration of the Clean Water Act in Florida by the U.S. Environmental Protection Agency (EPA) Southeastern Regional Office (Region 4).

Simply put, there appears to have been an utter breakdown in coherent Clean Water Act implementation by Region 4. We are asking the Office of Inspector General to find out why and who, specifically, is responsible.

The extent of the collapse in EPA Region 4 is evidenced by a long series of federal court rulings that it has been grossly derelict in protecting the water quality of the Everglades. The most recent federal court decision excoriated EPA for repeatedly violating the Clean Water Act that it is supposed to administer. On July 29, 2008, Miami U.S. District Judge Alan Gold found that EPA had shirked its duty to enforce basic water quality standards and, in so doing, “violated its fundamental commitment and promise to protect the Everglades” and “acted arbitrarily and capriciously.”

This ruling by Judge Gold is only the latest in a long series of Clean Water Act cases stretching back more than a decade that have all gone against EPA. Federal judges appointed by both Republican and Democratic administrations have repeatedly found EPA guilty under the highest standard in civil jurisprudence. These failures cannot be explained away as simple mistakes or misunderstandings.

**Collapse of Wetlands Protections**

Despite the importance of wetlands to water quality, EPA has also largely abandoned its enforcement of these Clean Water Act requirements:

- EPA Region 4 has not used its veto power to deny even one development project through the 404 C program since 1989;
- EPA is failing to scrutinize state water quality certification. The authorities at the South Florida Water Management District concede that the state water quality standards for Environmental Resource Permits do not address nitrogen and phosphorous, now the most common pollutants in Florida waterways; and
- After sanitizing the objections raised by its own specialists, EPA has acceded to a state methodology, called the Harper Report, which assumes that naturally functioning wetlands are a source of pollution that can be cured by certain forms of development.

### **Political Interference**

Significantly, key EPA Region 4 staff members have been removed for pointing out problems. EPA's Southwest Florida office has been closed; the EPA office in West Palm Beach has been relieved of its former authority and key staff reassigned to report to Atlanta. The EPA South Florida Administrator has been largely removed from Everglades restoration responsibilities.

The EPA Region 4 Administrator, Mr. Jimmy Palmer set the tone early on, repeatedly siding with development interests and even testifying against the EPA for a developer in a criminal case in Mississippi (the defendant lost).

### **Significance**

EPA finances and is supposed to oversee the State of Florida's clean water program but EPA has almost uniformly deferred to the state even when the state actions have been clearly wrong. Meanwhile, restoration of the Everglades, the largest public works project on the nation's docket, revolves around restoring water quality but official missteps have the mega-project mired in delays and uncertainty.

The upshot of EPA maladministration is that Florida waters, especially in the southern portion of the state, are in perilously poor shape. Algal blooms, fish kills, saltwater intrusion and drinking water emergencies are becoming ever more common.

A review by the EPA Inspector General is absolutely vital at this time to help inform the next administration about what changes are needed in the EPA Southeastern Regional Office. For these reasons, PEER and the Council of Civic Associations respectfully request that you examine these issues and recommend appropriate action. If you have any questions or concerns, please do not hesitate to contact us.

Sincerely,

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