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December 27, 2012

**VIA E-MAIL [OW-DOCKET@EPA.GOV]**

Water Docket  
U.S. Environmental Protection Agency  
Mail Code 28221T  
1200 Pennsylvania Avenue NW  
Washington, D.C. 20460  
Attention: Docket ID No. EPA-HQ-OW-2009-0596

Re: Proposed Stay of Water Quality Standards for the State of Florida Lakes and Flowing Waters; Final Rule; EPA Docket ID EPA-HQ-OW-2009-0596)

Dear Sir/Madam:

I write on behalf of Mosaic Fertilizer LLC ("Mosaic") in support of EPA's proposal to stay EPA's regulations establishing numeric nutrient criteria for Florida's inland waters until November 15, 2013, as proposed at 77 Fed. Reg. 74,449 (December 14, 2012) (hereinafter "the Regulations"). There are multiple reasons for EPA to take that action.

First, deferring the effective date of the Regulations would provide the critical time for EPA and the Florida Department of Environmental Protection ("FDEP") to clarify and resolve the scope of federal nutrient regulations for Florida, and possibly whether they are needed at all. EPA recently announced its approval of the State of Florida's numeric nutrient criteria regulation. EPA also announced its intention to continue to work with FDEP to address certain remaining issues that, if resolved, would (i) render the existing federal nutrient criteria for Florida, as well as the additional nutrient criteria proposed by EPA on December 18, 2012, unnecessary, and (ii) allow the FDEP nutrient regulations to become effective in Florida. That outcome would be consistent with the overall framework of the Clean Water Act, which establishes that states have "the primary responsibility" to "prevent, reduce and eliminate" water pollution and, specifically, to set water quality standards within their borders. *See* 33 U.S.C. §§ 1251(b) & 1313(c). Mosaic supports the collective effort by FDEP and EPA to resolve any outstanding issues related to Florida's nutrient regulations, and we believe that effort can and will succeed. However, it is unlikely that the necessary dialogue will be completed by the Regulations' current effective date of January 6, 2013.

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Second, allowing the Regulations to become effective January 6, 2013, when both EPA and FDEP believe that the Regulations may soon thereafter be superseded upon the FDEP rule becoming effective and EPA's withdrawal of some or all of the federal rules, would create great uncertainty and confusion for entities obligated to comply with, or to adjust their practices to comport with, the nutrient criteria in the Regulations. As EPA fully recognizes, upon becoming effective the Regulations will be implemented through limitations in individual discharge permits, through setting or revising Total Maximum Discharge Limits, and by other mechanisms. Operations such as Mosaic's that are or will be affected by that implementation will need to take steps, some onerous and costly, to assure their compliance, only to be required to change course a few months later and comply with a different set of requirements, if the discussions between EPA and FDEP are successful. This regulatory whiplash threatens unnecessary burdens and needless costs without securing any improvement in water quality.

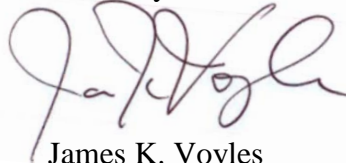
Finally, under the current state of affairs -- a patchwork array of overlapping, on-again-off-again federal and state initiatives -- even the most diligent, sophisticated party is hard pressed to sort out its current and prospective duties. Absent the proposed postponement of the Regulations' effective date, as of January 6, 2013 there would be: (1) EPA criteria for lakes and for springs; (2) EPA criteria for streams that were proposed, declared arbitrary and capricious, and re-proposed, but not yet final (or reviewed by the Court); (3) a State rule providing a different framework and hierarchy for streams that has been approved by EPA, but which EPA appears to assert is not yet effective; (4) State criteria for certain estuaries that, according to EPA, are effective; (5) EPA proposals for different estuaries that are not yet effective; (6) EPA criteria for downstream protection values (DPVs) for some lakes which are effective, but which EPA has stated are no longer necessary and for which EPA asserts it needs Court approval to withdraw; (7) an EPA proposal for DPVs for other lakes which is not yet effective, but which EPA similarly asserts is no longer necessary, but was compelled by Court order; and (8) a State approach for downstream protection of lakes and other waterbodies which EPA has approved, but which has not become effective as a result of EPA's current and proposed rules.

Whatever one's perspective of the merit or propriety of any of these rules and actions, no stakeholder would disagree that -- as the saying goes -- "this is no way to run a railroad." EPA owes it to every interested party, including the State of Florida and the public at large, to sort out its remaining issues with the parallel actions by FDEP and to clarify what regulations apply to what waterbodies under which State and/or Federal law, with a cogent explanation of its reasoning. The Regulations addressed in the proposed stay should indeed be stayed until at least November 15, 2013.

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Accordingly, for these reasons, we support a stay of the EPA nutrient criteria until November 15, 2013.

Sincerely,

A handwritten signature in dark ink, appearing to read "J. K. Voyles", is written over a light gray rectangular background.

James K. Voyles  
Director, Environmental Affairs