

**IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF FLORIDA  
TALLAHASSEE DIVISION**

FLORIDA WILDLIFE  
FEDERATION, INC. et al.,

Plaintiffs,

v.

CONSOLIDATED CASE  
NO. 4:08cv324-RH/WCS

LISA P. JACKSON, etc., et al.,

Defendants.

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THE FLORIDA WATER ENVIRONMENTAL  
ASSOCIATION UTILITY COUNCIL, INC.,

v.

CASE NO. 4:09cv428-RH/WCS

LISA P. JACKSON, etc., et al.,

Defendants.

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THE FLORIDA ELECTRIC POWER  
COORDINATING GROUP, INC.,

Plaintiff,

v.

CASE NO. 4:09cv436-RH/WCS

LISA P. JACKSON, etc., et al.,

Defendants.

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FLORIDA WILDLIFE  
FEDERATION, INC., et al.,

Plaintiffs,

v.

CASE NO. 4:10cv511-RH/WCS

THE UNITED STATES ENVIRONMENTAL  
PROTECTION AGENCY et al.,

Defendants.

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THE FERTILIZER INSTITUTE et al.,

Plaintiffs,

v.

CASE NO. 4:11cv51-RH/WCS

UNITED STATES ENVIRONMENTAL  
PROTECTION AGENCY,

Defendant.

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STATE OF FLORIDA, etc., et al.,

Plaintiffs,

v.

CONSOLIDATED  
CASE NO. 4:11cv61-RH/WCS

FORMER CASES NO.  
3:10cv503-RV/MD;  
3:10cv506/RV/EMT;  
3:10cv507-RS/MD;  
3:10cv513-MCR/MD;  
3:10cv532-MCR/EMT;  
3:11cv11-MCR/MD; and  
3:11cv47-MCR/EMT

LISA P. JACKSON, etc., et al.,

Defendants.

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### **SCHEDULING ORDER**

As set out on the record of the case-management conference on March 17,  
2011,

IT IS ORDERED:

1. These cases are consolidated for case-management purposes only and will be maintained on a common docket under Consolidated Case No. 4:08cv324. A paper—other than a complaint (or counterclaim or third-party complaint),

answer, judgment, notice of appeal, or motion to amend or amended version of any of them—that is applicable to any case must be filed in the common docket and must not be filed separately in any other case. A paper—other than a complaint (or counterclaim or third-party complaint), answer, judgment, notice of appeal, or amended version of any of them—that is filed in the common docket will be deemed filed in every case. The pending motions to consolidate are granted to this extent and otherwise denied.

2. Each party to any case—other than the South Florida Water Management District—is granted leave to intervene and is deemed a party in each other case. A party granted intervention in a case under this paragraph need not file a pleading in the case but is instead deemed to have adopted the positions set out in its pleading in each case to which it was already a party.

3. The schedule and page limits set out in the proposed schedule filed by the parties other than the environmental organizations, *see* ECF No. 212-1, are adopted with clarifications and page-limit changes as set out here.

(a) For purposes of this section of this order, a “plaintiff” is a party that seeks affirmative relief—or has intervened in support of a party that seeks affirmative relief—by a complaint, counterclaim, crossclaim, or third-party complaint other than the complaint in original Case No. 4:08cv324.

(b) The page limits set out in this section of this order apply separately

to the Environmental Protection Agency, the environmental organizations as a unit, and the plaintiffs—other than the environmental organizations—as a unit. Thus the environmental organizations have a single combined page limit; they cannot stack their page limits. And the same is true for the regulated entities and other parties—not including the EPA—who are on the same side of an issue as the regulated entities.

(c) No deadline under this order will be extended based on the manner in which a prior paper was served. So the three-day extension ordinarily applicable based on electronic service of a prior paper does not apply.

(d) Any preliminary motion must be filed by May 1, 2011. The motion and supporting memorandum must not exceed 25 pages. A memorandum in response must be filed within 14 days after the motion is filed and must not exceed 25 pages. A reply memorandum of not more than 10 pages may be filed within 10 days after the memorandum in response is filed.

(e) Each plaintiff must file a summary-judgment motion by June 15, 2011. The plaintiffs other than the environmental organizations must file a coordinated memorandum of not more than 90 pages and may file up to eight other memoranda of not more than 15 pages each that do not duplicate the coordinated memorandum. The environmental organizations may file a memorandum of not more than 90 pages in support of the summary-judgment motion on their rule

challenge but should keep the memorandum under 25 pages if possible.

(f) Any cross-motion for summary judgment and supporting memorandum must be joined with the party's memorandum opposing the original summary-judgment motion. All must be filed by September 15, 2011. A party's memorandum must not exceed the greater of 25 pages or the combined length of the memoranda supporting the original summary-judgment motion. Thus the overall page limit for the EPA and the environmental organizations—or, on the environmental organizations' rule change, the overall page limit for the EPA and any other parties opposing the rule challenge—may be twice the length of the memoranda supporting the original motion. But the parties should attempt to avoid duplication to the extent feasible and should bear in mind that longer memoranda are usually less persuasive, not more.

(g) A party may file by October 31, 2011, a combined (i) reply memorandum in support of a summary-judgment motion and (ii) memorandum in opposition to a cross-motion. The page limit is the greater of 30 pages or enough to bring the party's combined filings on the motions up to the length filed by the adverse parties.

(h) A party may file by December 12, 2011, a reply memorandum in support of a cross-motion. The page limit is the greater of 10 pages or enough to bring the party's combined filings on the original motion and cross-motion up to

the length filed by the adverse parties. But in no event may the reply memorandum exceed 30 pages.

(i) No party may file a separate statement of facts or separate response to a statement of facts as would otherwise be required by Local Rule 56.1. A party must instead include any statement of facts or response in a memorandum as would be appropriate in an appellate brief. A factual assertion must be supported by a pinpoint citation to the record.

4. By separate notice, the clerk must set a hearing on all pending motions for January 9, 2012, at 9:00 a.m.

5. The motion to lift the stay, ECF No. 193, is GRANTED IN PART. Proceedings will go forward under this order. But consideration of the motions to dismiss, ECF Nos. 150 and 151, remains stayed until further order of this court or a decision on the pending appeals.

SO ORDERED on March 21, 2011.

s/Robert L. Hinkle  
United States District Judge