South Florida Water Management District

GOVERNING BOARD MONTHLY MEETING
AGENDA

This meeting is open to the public

June 13, 2013
9:00 AM
Village of Key Biscayne - Council Chambers
560 Crandon Blvd.
Key Biscayne, FL 33149

FINAL

Pursuant to Section 373.079(7), Florida Statutes, all or part of this meeting may be conducted by means of communications media technology in order to permit maximum participation of Governing Board members.

The Governing Board may take official action at this meeting on any item appearing on this agenda and on any item that is added to this agenda as a result of a change to the agenda approved by the presiding officer of the meeting pursuant to Section 120.525, Florida Statutes. The order of items appearing on the agenda is subject to change during the meeting and is at the discretion of the presiding officer. Public Comment will be taken after each presentation and before any Governing Board action(s) except for Governing Board hearings that involve the issuance of final orders based on recommended Orders received from the Florida Division of Administrative Hearings.

1. Call to Order - Dan O'Keefe, Chairman, Governing Board

2. Pledge of Allegiance - Dan O'Keefe, Chairman, Governing Board

3. Recognition of Local Officials - Sandy Batchelor and Juan Portuondo, Governing Board Members representing Miami-Dade County

4. Agenda Revisions - Reagan Walker, Director, Office of Governing Board & Executive Services

5. Discussion of Executive Director Position

6. Abstentions by Board Members from items on the Agenda

7. Water Resources Advisory Commission (WRAC) Report - Tim Sargent, Chair

Consent Agenda

Members of the public wishing to address the Governing Board are to complete a Public Comment Card and submit the card to the front desk attendant. You will be called by the Board Chair or designee to speak. If you want to request that an item be removed from the Consent Agenda and be discussed by the Governing Board, please advise the Governing Board when you are called upon to speak. Governing Board directives limit comments from the public to 3 minutes unless otherwise determined by the Governing Board Chair. Your comments will be considered by the Governing Board prior to adoption of the Consent Agenda.

Unless otherwise determined by the Chair, Board action on pulled Consent Agenda items will occur at or after 9:00 a.m. on Thursday. Regulatory items pulled from the Consent Agenda for discussion will be heard during the Discussion Agenda. ***Unless otherwise noted, all Consent Agenda items are recommended for approval.***

8. Public Comment on Consent Agenda

9. Pull Items for Discussion from Consent Agenda

10. Board Comment on Consent Agenda

Consent Items

11. Approval of Minutes for the May 8, 2013, Tour and Joint Workshop with Big Cypress Basin Board held in Naples, Florida, and the May 9, 2013, Regular Business meeting held in West Palm Beach, Florida

12. Waivers for Water Resources Advisory Commission (WRAC) Members pursuant to Section 112.313, Florida Statutes

13. Regulatory Consent Items

- Permit Denials
- Consent Orders
- Conservation Easement and Releases
- Settlement Agreement
- Water Use Variances
- Seminole Tribe Work Plans

14. Right of Way Regulatory Consent Agenda

- Right of Way Occupancy Permit Modifications

15. **Resolution No. 2013 - 0601** A Resolution of the Governing Board of the South Florida Water Management District approving release of District canal, mineral and road reservations, issuance of non-use commitment and release of Trustees of the Internal Improvement Trust Fund canal reservations; providing an effective date. (OMC, Kathy Massey, ext. 6835)

16. **Resolution No. 2013 - 0602** A Resolution of the Governing Board of the South Florida Water Management District authorizing the Florida Fish and Wildlife Conservation Commission to utilize District lands for the Youth Hunting Program of Florida and hunts for injured active duty service members or injured honorably discharged veterans on such lands, subject to terms and conditions; providing an effective date. (OMC, Dan Cotter, ext. 2301)

17. **Resolution No. 2013 - 0603** A Resolution of the Governing Board of the South Florida Water Management District to authorize entering into a three-year contract with two (2) one-year renewal options with All Seasons Landscape Contractors, Inc., the lowest responsive and responsible bidder, for Slope Mowing Services in the Clewiston Field Station area, in the amount of $236,600 for three years, of which $33,800 in ad valorem funds are budgeted and the remainder is subject to Governing Board approval of the FY14-FY16 budgets; providing an effective date. (Contract Number 4600002882) (OMC, Mitchell Murphy, ext. 3218)

18. **Resolution No. 2013 - 0604** A Resolution of the Governing Board of the South Florida Water Management District to authorize an amendment to Work Order Contract 4600002401 with Environmental Consulting and Technology Inc., for Environmental Risk Assessment Services, to increase the contract in an amount not-to-exceed $900,000 for which $400,000 is budgeted and the remainder is subject to Governing Board approval of the FY14-FY16 budgets; providing an effective date. (Contract Number 4600002401) (OMC, Robert Kukleski, ext. 3337)

19. **Resolution No. 2013 - 0605** A Resolution of The Governing Board of The South Florida Water Management District to authorize an amendment to Work Order Contract 4600002399 with Professional Service Industries, Inc., for Environmental Risk Assessment Services, to increase the contract in an amount not-to-exceed $900,000 for which $400,000 is budgeted and the remainder is subject to Governing Board approval of the FY14-FY16 budgets; providing an effective date. (Contract Number 4600002399) (OMC, Robert Kukleski, ext. 3337)

20. **Resolution No. 2013 - 0606** A Resolution of the Governing Board of the South Florida Water Management District to authorize an amendment to Work Order Contract 4600002397 with URS Corporation, for Environmental Risk Assessment Services, to increase the contract in an amount not-to-exceed $500,000 for which $400,000 is budgeted and the remainder is subject to Governing Board approval of the FY14-FY16 budgets; providing an effective date. (Contract Number 4600002397) (OMC, Robert Kukleski, ext. 3337)

21. **Resolution No. 2013 - 0607** A Resolution of the Governing Board of the South Florida Water Management District authorizing entering into a three-year agreement with Florida International University for Influence of Ecohydrological Inflows on Central Florida Bay Coastal Systems in the amount of $276,354, of which $130,930 is allocated for FY13, budgeted from Florida Bay Special Revenue Funds, and the remainder is subject to Governing Board approval of the FY14-FY15 budgets; providing an effective date. (Contract No. 4600002866) (WR, Christopher Madden, ext. 4647)

22. **Resolution No. 2013 - 0608** A Resolution of the Governing Board of the South Florida Water Management District authorizing the transfer of funds within the District's FY12-13 budget to fund District fuel & electric demands as needed to respond to operational requirements; providing an effective date. (AS, Mike Smykowski, ext. 6295)

23. **Resolution No. 2013 - 0609** A Resolution of the Governing Board of the South Florida Water Management District authorizing the addition of facilities pursuant to the Master Lease Purchase Agreement dated as of November 1, 2006; authorizing the execution and delivery of a second supplement to Series 2006 Ground Lease and a second amendment to Schedule 2006 in connection therewith; authorizing the ground lease of certain lands; providing an effective date (AS, Mike Smykowski, ext. 6295).

24. **Resolution No. 2013 - 0610** A Resolution of the Governing Board of the South Florida Water Management District approving the July 1, 2013 Regulatory Plan attached as Appendix A and authorizing staff to submit to the Office of Fiscal Accountability and Regulatory Reform, in accordance with Executive Order 11-211, and to the Speaker of the House, President of the Senate and Joint Administrative Procedures Committee, in accordance with Section 120.74(3), Florida Statutes, effective immediately. (OC, Carolyn Ansay, ext. 6976)

25. **Resolution No. 2013 - 0611** A Resolution of the Governing Board of the South Florida Water Management District amending Sections 150-5, 150-6, and 150-7 of the District Policies Code regarding the Water Resources Advisory Commission (WRAC) to revise membership, appointment of a Vice Chair, and attendance provisions; providing for inclusion in the District Policies Code; providing for severability; providing an effective date. (EXO, Dan DeLisi, ext. 6232)

26. Board Vote on Consent Agenda

27. General Public Comment

Discussion Agenda

28. Technical Reports

    A) Ecological Conditions Report - Terrie Bates, Division Director, Water Resources (ext. 6952)

    B) Water Conditions Report - Tommy Strowd, Assistant Executive Director, Operations, Maintenance & Construction (ext. 6998)

29. District Flood Control Operations and Rainy Season Readiness Update - Tommy Strowd, Assistant Executive Director, Operations, Maintenance & Construction (ext. 6998)

30. Central Everglades Planning Project Update - Ernie Barnett, Assistant Executive Director, Everglades & Water Resources, and Kimberley Taplin, Chief, Central Everglades Branch, Planning & Policy Division, Jacksonville District, U.S. Army Corps of Engineers (ext. 2110)

31. Modified Water Deliveries Project Update - Ernie Barnett, Assistant Executive Director, Everglades & Water Resources, and Kimberley Taplin, Chief, Central Everglades Branch, Planning & Policy Division, Jacksonville District, U.S. Army Corps of Engineers (ext. 2110)

32. Land Assessment Process Update - Ray Palmer, Section Leader, Real Estate (ext. 2246)

33. **Resolution No. 2013 - 0612** A Resolution of the Governing Board of the South Florida Water Management District, directing staff to move forward to analyze options for disposal of land interests containing 6,250 acres, more or less, in Okeechobee, Osceola, Polk, Highlands and Glades Counties, together with any structures and improvements and personal property appurtenant thereto, and thereafter propose recommendations to the Governing Board for further approval; providing an effective date. (OMC, Ray Palmer, ext. 2246)

34. FY14 Proposed Budget Update - Doug Bergstrom, Division Director, Administrative Services Division (ext. 6214)

35. Dispersed Water Management Program Update - Temperince Morgan, Director, Office of Everglades Policy & Coordination (ext. 6987)

36. Biscayne Bay Dry Season Operations Update - Scott Burns, Chief Environmental Scientist, Water Resources Division (ext. 6544)

37. Biscayne Bay Coastal Wetlands Project Incremental Component Options - Tom Teets, Federal Policy Chief, Office of Everglades Policy & Coordination (ext. 6993)

38. General Public Comment

Public Hearing

39. Adopt amendments to Rules 40E-2.091, 40E-10.021, 40E-10.031, 40E-10.041, 40E-10.051, 40E-10.061, and the Basis of Review for Water Use Permit Applications within the South Florida Water Management District, to establish a Water Reservation for the protection of fish and wildlife associated with the Biscayne Bay Coastal Wetlands Phase I Project. (WR, Don Medellin, ext. 6340)

40. Adopt amendments or repeal provisions in Chapter 40E-0, 40E-1, 40E-4 and 40E-41, F.A.C., repeal Chapters 40E-40 and 40E-400, F.A.C., amend and rename the Basis of Review for Environmental Resource Permit Applications within the South Florida Water Management District, and authorize publication of a Notice of Change in the Florida Administrative Register, regarding the statewide environmental resource permitting rules. (OC, Susan Martin, ext. 6251)

41. Adopt amendments to Rules 40E-6.011, 40E-6.021, 40E-6.031, 40E-6.041, 40E-6.051, 40E-6.091, 40E-6.201, 40E-6.221, 40E-6.321, 40E-6.331, 40E-6.341, 40E-6.351, 40E-6.361, 40E-6.381, 40E-6.451, 40E-6.481, 40E-6.501, 40E-6.521, and 40E-6.601, F.A.C., repeal Rules 40E-6.101, 40E-6.121, 40E-62.011, 40E-62.020, 40E-62.021, 40E-62.023, 40E-62.041, 40E-62.042, 40E-62.043, 40E-62.051, 40E-62.101, 40E-62.301, 40E-62.321, 40E-62.331, 40E-62.341, 40E-62.351, 40E-62.381, and 40E-62.651, F.A.C., and new rules 40E-6.701, 40E-6.711, 40E-6.721, 40E-6.731, 40E-6.741 and 40E-6.751, F.A.C., and the materials incorporated by reference in Rule 40E-6.091, F.A.C., regarding the Right of Way Permitting Program for Works and Lands of the District. (OMC, Jorge Patino, ext. 6175)

Staff Reports

42. Monthly Financial Statement - Doug Bergstrom, Division Director, Administrative Services

43. General Counsel's Report - Carolyn S. Ansay

44. Executive Director's Report

    Report on permits issued by authority delegated to the Executive Director from May 1-31, 2013.

45. Board Comment

46. Adjourn

CONSENT AGENDA TABLE OF CONTENTS
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June 13, 2013

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Attachment: ca_rm_reg_100_sd (V) (1270 : Regulatory Consent Agenda)

REGULATION AGENDA ITEMS

PERMIT DENIAL: Those listed on the consent agenda are routine in nature and non-controversial. Such denials are typically due to failure of applicant to complete the application. Unique or controversial projects or those requiring a policy decision are normally listed as discussion items. Permit types include:

Environmental Resource (ERP): Permits that consider such factors as the storage of storm water to prevent flooding of a project (upstream or downstream projects); the treatment of stormwater prior to discharge from the site to remove pollutants; and the protection of wetlands on the project site.

Surface Water Management: Permits for drainage systems, which address flood protection, water quality, and environmental protection of wetlands.

Water Use: Permits for the use of ground and/or surface water from wells, canals, or lakes.

Lake Okeechobee Works of the District: Permits that set concentration limits for total phosphorus in surface discharge from individual parcels in the Lake Okeechobee Basin.

EAA Works of the District: Permits to reduce the total phosphorus load from the EAA by 25 percent in water discharged to Works of the District.

Wetland Resource: Permits for dredge and fill activities within Waters of the State and their associated wetlands.

ADMINISTRATIVE HEARING: A case in litigation conducted pursuant to the Administrative Procedures Act (Chapter 120, Florida Statutes) involving the determination of a suit upon its merits. Administrative hearings provide for a timely and cost effective dispute resolution forum for interested persons objecting to agency action.

FINAL ORDER: The Administrative Procedures Act requires the District to timely render a final order for an administrative hearing after the hearing officer submits a recommended order. The final order must be in writing and include findings of fact and conclusions of law.

CONSENT ORDER: A voluntary contractual agreement between the District and a party in dispute which legally binds the parties to the terms and conditions contained in the agreement. Normally used as a vehicle to outline the terms and conditions regarding settlement of an enforcement action.

CONSERVATION EASEMENT: A perpetual fee ownership in real property that retains such land or water area in its predominantly natural, scenic, open, or wooded condition. Conservation easements generally limit the use of the conservation area to passive, recreational activities such as hiking and bicycling. The District will consider as mitigation for the adverse impacts to wetlands or other surface waters functions caused by a proposed project, the preservation, by conservation easement, of wetland ecosystems.

TECHNICAL DENIAL: This action normally takes place when a proposed project design does not meet water management criteria or the applicant does not supply information necessary to complete the technical review of an application.

EMERGENCY ORDER and AUTHORIZATION: An immediate final order issued without notice by the Executive Director, with the concurrence and advice of the Governing Board, pursuant to (Section 373.119(2), Florida Statutes, when a situation arises that requires timely action to protect the public health, safety or welfare and other resources enumerated by rule and statute.

Attachment: ca_rm_reg_100_sd (V) (1270 : Regulatory Consent Agenda)

MEMORANDUM OF AGREEMENT/UNDERSTANDING: A contractual arrangement between the District and a named party or parties. This instrument typically is used to define or explain parameters of a long-term relationship and may establish certain procedures or joint operating decisions.

PETITION: An objection in writing to the District, requesting either a formal or an informal administrative hearing, regarding an agency action or a proposed agency action. Usually a petition filed pursuant to Chapter 120, Florida Statutes, challenges agency action, a permit, or a rule. Virtually all agency action is subject to petition by substantially affected persons.

SEMINOLE TRIBE WORK PLAN: The District and the Seminole Indians signed a Water Use Compact in 1987. Under the compact, annual work plans are submitted to the District for review and approval. This plan keeps the District informed about the tribe plans for use of their land and the natural resources. Although this is not a permit, the staff has water resource related input to this plan.

SITE CERTIFICATIONS: Certain types of projects (power plants, transmission lines, etc.) are permitted by the Governor and Cabinet under special one-stop permitting processes that supercede normal District permits. The Water Management Districts, DEP, DCA, FGFWFC, and other public agencies are mandatory participants. DEP usually coordinates these processes for the Governor and Cabinet.

VARIANCES FROM, OR WAIVERS OF, PERMIT CRITERIA: The Florida Administrative Procedures Act provides that persons subject to an agency rule may petition the agency for a variance from, or waiver of, a permitting rule. The Governing Board may grant a petition for variance or waiver when the petitioner demonstrates that 1) the purpose of the underlying statute will be or has been achieved by other means and, 2) when application of the rule would create a substantial hardship or would violate principles of fairness.

Attachment: ca_rm_reg_100_sd (V) (1270 : Regulatory Consent Agenda)

DENIALS

GLADES COUNTY

1. GONZALEZ PROPERTY (MANDY AUTO SALES)
   MANDY AUTO SALES
   SEC 36 TWP 42S RGE 32E

APPL. NO. 091030-27
PERMIT NO. N/A
ACREAGE: 9.50
LAND USE: COMMERCIAL

PERMIT TYPE: ENVIRONMENTAL RESOURCE (NEW GENERAL PERMIT)

RECEIVING BODY: UNKNOWN

PRIMARY ISSUES: FINAL ORDER TO DENY DUE TO APPLICANT'S FAILURE TO COMPLETE APPLICATION

LAST DATE FOR BOARD ACTION: JUNE 13, 2013

Attachment: ca_rm_reg_100_sd (V) (1270 : Regulatory Consent Agenda)

DENIALS

ORANGE COUNTY

1. LIKI TIKI VILLAGE 3 — APPL. NO. 080514-13
   ISLAND ONE INC — PERMIT NO. 48-01048-P
   SEC 31 TWP 24S RGE 27E — ACREAGE: 57.13
   LAND USE: COMMERCIAL

   PERMIT TYPE: ENVIRONMENTAL RESOURCE (GENERAL PERMIT MODIFICATION)

   RECEIVING BODY: UNKNOWN

   PRIMARY ISSUES: FINAL ORDER TO DENY DUE TO APPLICANT'S FAILURE TO COMPLETE APPLICATION

   LAST DATE FOR BOARD ACTION: JULY 11, 2013

2. LIKI TIKI VILLAGE III — APPL. NO. 080521-13
   LIKI TIKI VILLAGE III — PERMIT NO. N/A
   SEC 31 TWP 24S RGE 27E — ACREAGE: 1.00
   LAND USE: DEWATERING

   PERMIT TYPE: WATER USE PROPOSED

   WATER SOURCE: Water Table aquifer
   ALLOCATION: UNKNOWN

   PRIMARY ISSUES: FINAL ORDER TO DENY DUE TO APPLICANT'S FAILURE TO COMPLETE APPLICATION

   LAST DATE FOR BOARD ACTION: JULY 11, 2013

Attachment: ca_rm_reg_100_sd (V) (1270 : Regulatory Consent Agenda)

CONSENT ORDERS

1. RESPONDENT: KRG CREC / KL PEMBROKE PINES LLC
PROJECT: COBBLESTONE PLAZA (FKA 10963 GRAND PALMS PLAZA)

SEC 16 TWP 51S RGE 40E BROWARD COUNTY
SETTLEMENT OF AN ENFORCEMENT ACTION REGARDING NON COMPLIANCE WITH PERMIT CONDITIONS FOR FAILURE TO SUBMIT CONSTRUCTION COMPLETION CERTIFICATION

2. RESPONDENT: BROWARD SCHOOL DEV LLC
PROJECT: SOMERSET ACADEMY

SEC 11 TWP 51S RGE 39E BROWARD COUNTY
SETTLEMENT OF AN ENFORCEMENT ACTION REGARDING NON COMPLIANCE WITH PERMIT CONDITIONS FOR FAILURE TO SUBMIT CONSTRUCTION COMPLETION CERTIFICATION

3. RESPONDENT: THOMAS CONTRACTING
PROJECT: CHALIFOUX MINI WAREHOUSES (PHASE 2)

SEC 24 TWP 25S RGE 29E OSCEOLA COUNTY
SETTLEMENT OF AN ENFORCEMENT ACTION REGARDING NON COMPLIANCE WITH PERMIT CONDITIONS FOR FAILURE TO SUBMIT CONSTRUCTION COMPLETION CERTIFICATION

4. RESPONDENT: VILA NURSERY INC
PROJECT: VILA NURSERY

SEC 20 TWP 42S RGE 41E PALM BEACH COUNTY
ENTERING INTO AN AMENDED CONSENT ORDER TO EXTEND THE DEADLINE TO COMPLETE THE SURFACE WATER MANAGEMENT SYSTEM

Attachment: ca_rm_reg_100_sd (V) (1270 : Regulatory Consent Agenda)

CONSERVATION EASEMENT AMENDMENTS AND RELEASES

1. PERMITTEE: OSCAR LEWIS DANIEL
   PROJECT: DANIEL RANCH

PARTIAL RELEASE OF A CONSERVATION EASEMENT RECORDED ON NOVEMBER 1, 2006, THAT WAS GRANTED PURSUANT TO CONSENT AGREEMENT ORDER NO. SFWMD 2006 068 CO ERP ENTERED INTO BETWEEN OSCAR "BUCK" LEWIS DANIEL AND R BAR ESTATES, INC. (COLLECTIVELY, "DANIEL") AND THE DISTRICT, TO MITIGATE FOR UNAUTHORIZED WETLAND IMPACTS IN ANTICIPATION OF DANIEL APPLYING FOR AND OBTAINING AN ENVIRONMENTAL RESOURCE PERMIT ("PERMIT") TO ADDRESS THE WETLAND IMPACTS. SINCE THE CONSERVATION EASEMENT WAS GRANTED, DANIEL HAS CEASED THE AGRICULTURAL OPERATIONS THAT LED TO THE WETLAND VIOLATIONS AND HAS ADDRESSED CERTAIN WETLAND IMPACTS AND CONSEQUENTLY, NO LONGER INTENDS TO OBTAIN A PERMIT. DANIEL ALSO INTENDS TO MODIFY WATER CONTROL STRUCTURES IN ORDER TO PROVIDE HYDRATION TO SEVERAL WETLANDS. PARTIAL RELEASE OF 79.66 ACRES OF THE EXISTING 188 ACRE CONSERVATION EASEMENT IS BEING REQUESTED DUE TO THE CHANGE IN LAND USE AND SITE CONDITIONS AND IN CONJUNCTION WITH A CONSENT FINAL JUDGMENT THAT WILL RESOLVE THE ON-GOING LITIGATION OF THIS MATTER.

2. PERMITTEE: COLLIER COUNTY BOARD OF COUNTY COMMISSIONERS / COLLIER COUNTY FACILITIES MGMT
   PROJECT: VANDERBILT BEACH RESTROOM

APPROVAL OF A PARTIAL RELEASE OF A RECORDED CONSERVATION EASEMENT OVER AN EXISTING 2.21-ACRE PRESERVE AREA WITHIN A DEVELOPMENT KNOWN AS VANDERBILT BEACH PARKING GARAGE, LOCATED IN NAPLES, COLLIER COUNTY, FLORIDA. THE ORIGINAL APPLICATION NUMBER IS 041018-13 AND THE ENVIRONMENTAL RESOURCE PERMIT NUMBER IS 11-02410-P. THE PARTIAL RELEASE OF CONSERVATION EASEMENT REFLECTS THE REMOVAL OF 0.7-ACRES OF PRESERVED WETLANDS FOR THE INSTALLATION OF A PUBLIC RESTROOM FACILITY. THE ACREAGE REMOVAL RESULTS IN A DECREASE TO THE PRESERVE AREA FROM 2.21-ACRES TO 1.51-ACRES. TO COMPENSATE FOR THE RELEASE OF THE 0.7-ACRES OF CONSERVATION EASEMENT, THE APPLICANT HAS PROPOSED PURCHASING MITIGATION BANK CREDITS UNDER THE PENDING APPLICATION NUMBER 130320-7.

Attachment: ca_rm_reg_100_sd (V) (1270 : Regulatory Consent Agenda)

SETTLEMENT AGREEMENT

1. PERMITTEE: VALENCIA RIVER ASSOCIATES LP/INDIAN SUNBURST LP/EARTHMARK MITIGATION SVCS LLC

   PROJECT: TREASURE COAST MITIGATION BANK

APPROVE A SETTLEMENT AGREEMENT (AGREEMENT) AMONG THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT ("DISTRICT") AND VALENCIA RIVER ASSOCIATES, LP, A FLORIDA LIMITED PARTNERSHIP, INDIAN SUNBURST ASSOCIATES, LP, A FLORIDA LIMITED PARTNERSHIP, AND EARTHMARK MITIGATION SERVICES, LLC, A FLORIDA LIMITED LIABILITY COMPANY REGARDING THE SURRENDER OF A MITIGATION BANK PERMIT KNOWN AS TREASURE COAST MITIGATION BANK IN ST. LUCIE COUNTY, COMPLETION OF CERTAIN RESTORATION ACTIVITIES ON THE PROPERTY AND AUTHORIZATION FOR THE EXECUTIVE DIRECTOR OR DESIGNEE TO FINALIZE THE PARTIAL RELEASE OF A XXXX ACRE CONSERVATION EASEMENT UPON COMPLETION OF CERTAIN SPECIFIC ACTIVITIES.

Attachment: ca_rm_reg_100_sd (V) (1270 : Regulatory Consent Agenda)

WATER USE VARIANCES

1. PERMITTEE: SCULLY COMPANY
   PROJECT: CRYSTAL PALMS

PALM BEACH COUNTY

ENTER A FINAL ORDER GRANTING A PETITION FOR VARIANCE TO SCULLY COMPANY AUTHORIZING A VARIANCE FROM THE DAY OF THE WEEK LANDSCAPE IRRIGATION MEASURES SPECIFIED IN CHAPTER 40E-24, F.A.C., TO PROVIDE FOR WATER CONSERVATION THROUGH IMPLEMENTATION OF AN ADVANCE IRRIGATION SYSTEM.

2. PERMITTEE: GB INVESTORS LLC
   PROJECT: GOLDEN BEAR PLAZA

ENTER A FINAL ORDER GRANTING A PETITION FOR VARIANCE TO GB INVESTORS LLC AUTHORIZING A VARIANCE FROM THE DAY OF THE WEEK LANDSCAPE IRRIGATION MEASURES SPECIFIED IN CHAPTER 40E-24, F.A.C., TO PROVIDE FOR WATER CONSERVATION THROUGH IMPLEMENTATION OF AN ADVANCE IRRIGATION SYSTEM.

Attachment: ca_rm_reg_100_sd (V) (1270 : Regulatory Consent Agenda)

SEMINOLE TRIBE WORK PLANS

1. CONCUR WITH THE THIRD AMENDMENT TO THE TWENTY SIXTH ANNUAL WORK PLAN FOR THE SEMINOLE TRIBE OF FLORIDA. WORKS IN THE BRIGHTON RESERVATION INCLUDE A PROPOSED FILLING OF A DEAD-END DITCH OF RESERVATION ROAD AND CATTLE AND RANGE PARKING; CONSTRUCTION AND INSTALLATION OF A 120 FOOT RADIO TOWER; WORKS IN THE BIG CYPRESS RESERVATION INCLUDE THE CONSTRUCTION OF THREE (3) TOWNHOUSE BUILDINGS AND ASSOCIATED PARKING AREAS, DRIVEWAYS, SIDEWALKS AND LANDSCAPING ON APPROXIMATELY 1.4 ACRES; INSTALLATION OF A 24 INCH CULVERT WITH A RISER ON JOSIE JUMPER TRAIL; A PROPOSED CONSTRUCTION AND PAVING FOR MARBEL T. FRANK WAY (BIA B009) FROM SNAKE ROAD (BIA 1281) EASTERLY FOR 0.6 MILES INCLUDING SIDEWALKS ON BOTH SIDES OF THE ROAD AND ALL NEW RELEVANT DRAINAGE; AND RELEVANT CONSTRUCTION IMPROVEMENTS AND PAVING OF STREET A AND STREET B IN THE VICINITY IF MARVEL T. FRANK WAY.

2. CONCUR WITH THE FOURTH AMENDMENT TO THE TWENTY SIXTH ANNUAL WORK PLAN FOR THE SEMINOLE TRIBE OF FLORIDA. WORKS IN THE BRIGHTON RESERVATION INCLUDE A PROPOSED DRAINAGE IMPROVEMENT PLAN TO THE BRIGHTON ELDER ACTIVITY CENTER; SUBMITTAL OF THE PLANS (100%)FOR THE CONSTRUCTION OF THE BIRD NEST PASS ROAD.

Attachment: ca_rm_reg_100_sd (V) (1270 : Regulatory Consent Agenda)

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RIGHT OF WAY OCCUPANCY CONSENT AGENDA FOR GOVERNING BOARD APPROVAL
June 13, 2013

		PAGES
I	**RIGHT OF WAY OCCUPANCY PERMIT MODIFICATIONS:** Governing Board action is required for routine requests which involve a change, addition or deletion to a use of the right of way which was previously permitted. Items are placed on this Consent Agenda when the staff's recommendation is for approval.	2

Attachment: ca_rm_lr_101_sd (1271 : Right of Way Regulatory Consent Agenda)

RIGHT OF WAY OCCUPANCY PERMIT MODIFICATIONS

1. LINDSAY DEL CAMPO
   COUNTY: PALM BEACH

   Permit Number: 4132
   Appl No.: 13-0411-1
   Easement

   AUTHORIZING:

   EXISTING GAZEBO, RELOCATION OF EXISTNG BOAT LIFT AND PROPOSED NEW PIER, MARGINAL DOCK, NEW BOATLIFT AND LOWER DOCK EXTENSION WITHIN THE NORTH RIGHT OF WAY OF C-16 AT THE REAR OF 826 SHORE DRIVE.

   LAST DATE FOR BOARD ACTION: JUNE 13, 2013

Attachment: ca_rm_lr_101_sd (1271 : Right of Way Regulatory Consent Agenda)

M E M O R A N D U M

TO: Governing Board Members

FROM: Tommy Strowd, Assistant Executive Director

DATE: June 13, 2013

SUBJECT: Release of Reservations

BACKGROUND INFORMATION: Canal reservations evolved from efforts to provide infrastructure, without cost to the taxpayers, to carry out drainage and reclamation projects, and provide roads. Many, but not all, conveyances of land by the State of Florida through the Trustees of the Internal Improvement Trust Fund ("TIITF") and the Everglades Drainage District (EDD), a predecessor to the South Florida Water Management District, reserved rights to construct future water control works, percentages of the mineral rights, together with the right of ingress, egress and exploration, and reservations for State and County road rights-of-way.

The District routinely receives applications for releases of these reservations from landowners, attorneys, title companies and lending institutions, who consider the reservations to be title defects; applications are processed by the Real Estate Management Section. Applications are reviewed by appropriate District personnel and applicable local governmental agencies to determine that there is no present or future need for the canal reservation. .Also, TIITF requires the District to review and issue a written approval to the Department of Environmental Protections (DEP) prior to releasing TIITF canal reservations. Mineral reservations are released for parcels containing 1.25+/- acres or less, and non-use commitments are issued for parcels greater than 1.25+/- acres. When a non-use commitment is issued, the District agrees not to exercise its right of ingress and egress for the exploration of minerals, provided the landowner does not explore for the same. The District retains its interest in the mineral estate and is entitled to any future proceeds should exploration occur

CONSIDERATIONS: See Exhibit "A" attached hereto and made a part hereof, which contains the details of releases and approvals to be approved and issued.

AUTHORIZATION: Pursuant to Section 373.096 of the Florida Statutes, the Governing Board of the District may release any reservation for which it has no present or apparent use under terms and conditions determined by the Board.

FISCAL IMPACT: None; reservations were acquired at no cost to the District.

RECOMMENDATION: A Resolution of the Governing Board of the South Florida Water Management District approving release of District canal, mineral and road reservations, issuance of non-use commitment, and release of Trustees of the Internal Improvement Trust Fund canal reservations; providing an effective date.

EXHIBIT "A"

File Nos.:	18538 and NUC 1624
Applicant:	Prime Realty Capital, LLC, a Florida limited liability company
Reserving Deed:	E-5773 (DB 787-125, 4/30/1945)
Fee paid:	$250.00
Action:	Approve release of District canal reservations and issuance of non-use commitment
Acres:	4.81 acres, more or less
Legal Description:	Portion of Tract 52, PALM BEACH FARMS COMPANY PLAT NO. 3, PB 2-45, Section 27, Township 43 South, Range 42 East
Location:	6875 Wallis Road, West Palm Beach, Palm Beach County
Reviewed by:	Lake Worth Drainage District (no internal routing required, due to parcel size and land use)

File No.:	18539
Applicant:	Prime Realty Capital, LLC, a Florida limited liability company
Reserving Deed:	E-5773 (DB 787-125, 4/30/1945)
Fee paid:	$250.00
Action:	Approve release of District canal and mineral reservations
Acres:	0.19 acres, more or less
Legal Description:	Portion of Tract 52, PALM BEACH FARMS COMPANY PLAT NO. 3, PB 2-45, Section 27, Township 43 South, Range 42 East
Location:	6875 Wallis Road, West Palm Beach, Palm Beach County
Reviewed by:	Lake Worth Drainage District (no internal routing required, due to parcel size and land use)

File Nos.:	18540 and 5-13-1
Applicant:	Town of Medley, a political subdivision of the State of Florida
Reserving Deeds:	E-473 (DB 2376-350, 4/14/1944) and 16198 (DB 46-240, 12/24/1908)
Fee paid:	$500.00
Action:	Approve release of District canal, mineral and road reservations, and TIITF canal reservations
Acres:	1.88 acres, more or less
Legal Description:	Portion of Tract 40, FLORIDA FRUIT LANDS COMPANY SUBDIVISION, PB 2-17, Section 11, Township 53 South, Range 40 East
Location:	7331 NW 74th Street, Medley, Miami-Dade County
Reviewed by:	Water Supply Development Section, Right of Way Section, Environmental Resource Permitting Bureau, Survey Section, Office of Everglades Policy and Coordination, and Metropolitan Dade County

File No.:	18543
Applicant:	Zai Express, LLC, a Florida limited liability company
Reserving Deed:	E-7026 (DB 3383-537, 12/22/1950)
Fee paid:	$250.00
Action:	Approve release of District canal, mineral and road reservations
Acres:	0.20 acres, more or less
Legal Description:	Unit 3, Building 6300, FLIGHTWAY COMMERCE PARK CONDOMINIUM, ORB 22233-4315, Section 17, Township 53 South, Range 40 East
Location:	6324 NW 97th Avenue, #3, Miami, Miami-Dade County
Reviewed by:	Miami-Dade County (no internal routing required, due to parcel size and land use)

File No.:	18544
Applicant:	David W. Brown and Yolanda T. Brown, husband and wife
Reserving Deed:	QCD (DB 910-675, 5/27/1950)
Fee paid:	$250.00
Action:	Approve release of District mineral reservations
Acres:	0.28 acres, more or less
Legal Description:	Lot 124, FLORIDA GARDENS PLAT 4, unrecorded, Section 28, Township 44 South, Range 42 East
Location:	31 West Coconut Drive, Lake Worth, Palm Beach County
Reviewed by:	No routing required for mineral releases

SOUTH FLORIDA WATER MANAGEMENT DISTRICT

(ID # 1275)

A Resolution of the Governing Board of the South Florida Water Management District approving release of District canal, mineral and road reservations, issuance of non-use commitment and release of Trustees of the Internal Improvement Trust Fund canal reservations; providing an effective date. (OMC, Kathy Massey, ext. 6835)

WHEREAS, certain underlying landowners have requested that the South Florida Water Management District ("District") release certain canal, mineral and road reservations, issue non-use commitments and approve release of certain Trustees of the Internal Improvement Trust Fund ("TIITF") canal reservations;

WHEREAS, the District is empowered to grant such releases and approvals pursuant to Section 373.096, Florida Statutes;

NOW THEREFORE, BE IT RESOLVED by the Governing Board of the South Florida Water Management District:

Section 1. The Governing Board of the South Florida Water Management District hereby approves the release of District canal, mineral and road reservations, issuance of non-use commitments and TIITF canal reservations, as described in Exhibit "A", attached hereto and made a part hereof.

Section 2. This Resolution shall take effect immediately upon adoption.

PASSED and **ADOPTED** this 13th day of June, 2013.

SOUTH FLORIDA WATER MANAGEMENT DISTRICT, BY ITS GOVERNING BOARD
By:

_____
Chairman

Attest:

_____
District Clerk/Secretary

Legal form approved:
By:

_____
Office of Counsel

Print name:

_____

EXHIBIT "A"

RELEASE OF DISTRICT CANAL, MINERAL AND ROAD RESERVATIONS:

File No.:	18538
Applicant:	Prime Realty Capital, LLC, a Florida limited liability company
Reserving Deed:	E-5773 (DB 787-125, 4/30/1945)
Acres:	4.81 acres, more or less
Legal Description:	Portion of Tract 52, PALM BEACH FARMS COMPANY PLAT NO. 3, PB 2-45, Section 27, Township 43 South, Range 42 East
Location:	6875 Wallis Road, West Palm Beach, Palm Beach County

File No.:	18539
Applicant:	Prime Realty Capital, LLC, a Florida limited liability company
Reserving Deed:	E-5773 (DB 787-125, 4/30/1945)
Acres:	0.19 acres, more or less
Legal Description:	Portion of Tract 52, PALM BEACH FARMS COMPANY PLAT NO. 3, PB 2-45, Section 27, Township 43 South, Range 42 East
Location:	6875 Wallis Road, West Palm Beach, Palm Beach County

File No.:	18540
Applicant:	Town of Medley, a political subdivision of the State of Florida
Reserving Deed:	E-473 (DB 2376-350, 4/14/1944)
Acres:	1.88 acres, more or less
Legal Description:	Portion of Tract 40, FLORIDA FRUIT LANDS COMPANY SUBDIVISION, PB 2-17, Section 11, Township 53 South, Range 40 East
Location:	7331 NW 74th Street, Medley, Miami-Dade County

File No.:	18543
Applicant:	Zai Express, LLC, a Florida limited liability company
Reserving Deed:	E-7026 (DB 3383-537, 12/22/1950)
Acres:	0.20 acres, more or less
Legal Description:	Unit 3, Building 6300, FLIGHTWAY COMMERCE PARK CONDOMINIUM, ORB 22233-4315, Section 17, Township 53 South, Range 40 East
Location:	6324 NW 97th Avenue, #3, Miami, Miami-Dade County

File No.:	18544
Applicant:	David W. Brown and Yolanda T. Brown, husband and wife
Reserving Deed:	QCD (DB 910-675, 5/27/1950)
Acres:	0.28 acres, more or less
Legal Description:	Lot 124, FLORIDA GARDENS PLAT 4, unrecorded, Section 28, Township 44 South, Range 42 East
Location:	31 West Coconut Drive, Lake Worth, Palm Beach County

Attachment: ca_om_200_Exh_A (Resolution No. 2013 - 0601 : Release of Reservations)

RELEASE OF TIITF CANAL RESERVATIONS:

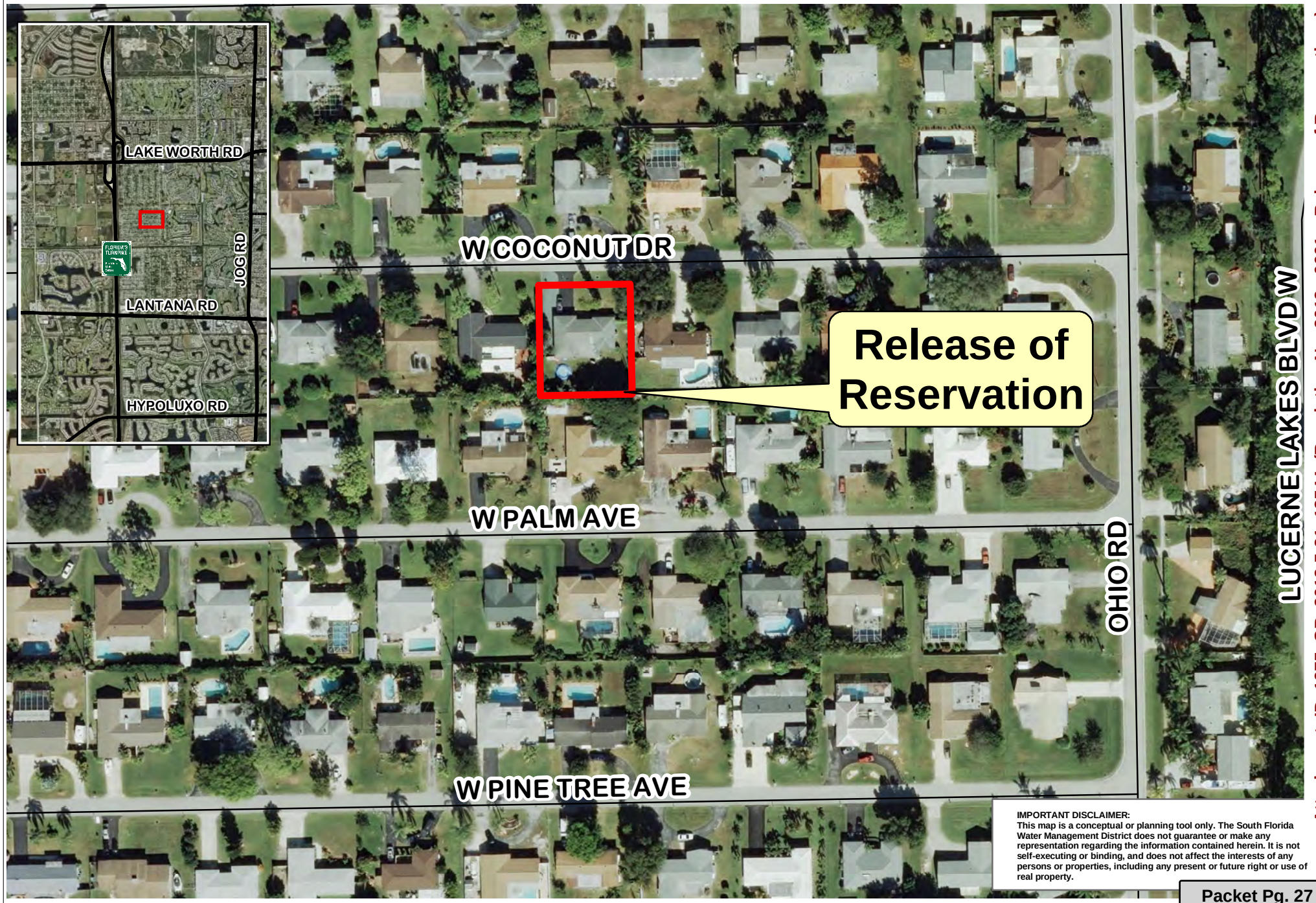
File No.:	5-13-1
Applicant:	Town of Medley, a political subdivision of the State of Florida
Reserving Deed:	16198 (DB 46-240, 12/24/1908)
Acres:	1.88 acres, more or less
Legal Description:	Portion of Tract 40, FLORIDA FRUIT LANDS COMPANY SUBDIVISION, PB 2-17, Section 11, Township 53 South, Range 40 East
Location:	7331 NW 74th Street, Medley, Miami-Dade County

ISSUANCE OF NON-USE COMMITMENT:

File No.:	NUC 1624
Applicant:	Prime Realty Capital, LLC, a Florida limited liability company
Reserving Deed:	E-5773 (DB 787-125, 4/30/1945)
Acres:	4.81 acres, more or less
Legal Description:	Portion of Tract 52, PALM BEACH FARMS COMPANY PLAT NO. 3, PB 2-45, Section 27, Township 43 South, Range 42 East
Location:	6875 Wallis Road, West Palm Beach, Palm Beach County

Attachment: ca_om_200_Exh_A (Resolution No. 2013 - 0601 : Release of Reservations)

18544
Palm Beach County

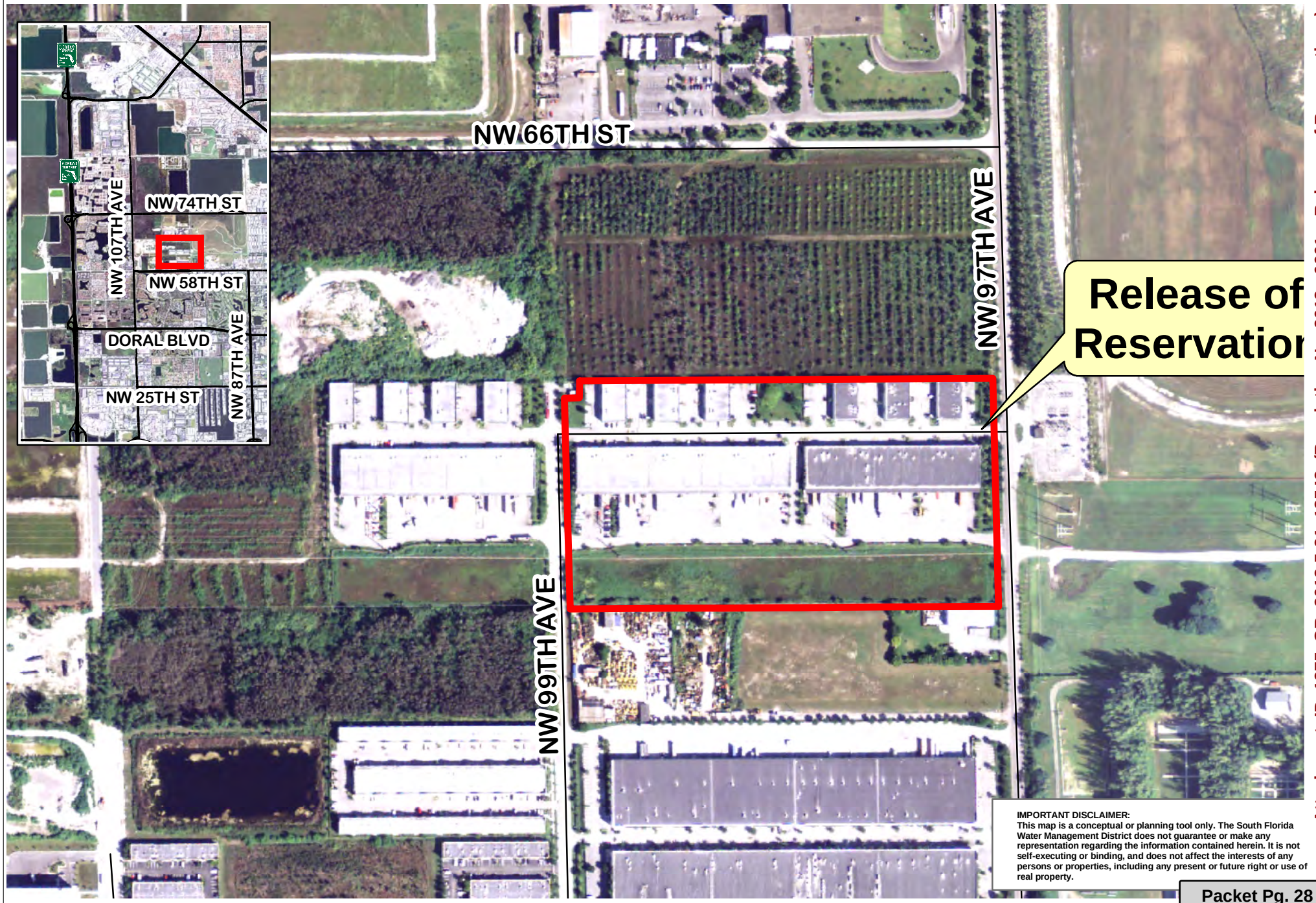


IMPORTANT DISCLAIMER:
This map is a conceptual or planning tool only. The South Florida Water Management District does not guarantee or make any representation regarding the information contained herein. It is not self-executing or binding, and does not affect the interests of any persons or properties, including any present or future right or use of real property.

For copies of this map (\\Ad.sfwmd.gov\dfsroot\data\aa_gis\arc_data\maps\ReleaseofReservation\GB_2013-5-31_18544.mxd), Created on 5/31/13 by SMF.

Attachment: ID_1275_GB_2013-5-31_18544 (Resolution No. 2013 - 0601 : Release of Reservations)

18543
Miami-Dade County



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Attachment: ID_1275_GB_2013-5-31_18543 (Resolution No. 2013 - 0601 : Release of Reservations)

5-13-1 and 18540
Miami-Dade County

IMPORTANT DISCLAIMER:
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Attachment: ID_1275_GB_2013-5-31_18540 (Resolution No. 2013 - 0601 : Release of Reservations)

18538, 18539 & NUC 1624
Palm Beach County

IMPORTANT DISCLAIMER:
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Attachment: ID_1275_GB_2013-5-31_18539NUC1624 (Resolution No. 2013 - 0601 : Release of

M E M O R A N D U M

TO: Governing Board Members

FROM: Tommy Strowd, Assistant Executive Director

DATE: June 13, 2013

SUBJECT: Special Hunt Programs on District Lands

Background:
In partnership with the Florida Fish and Wildlife Conservation Commission, hunting opportunities and associated environmental education programs have been successfully administered through the Youth Hunting Program of Florida since 2011 on the Grassy Island land tract located in Okeechobee County and Stormwater Treatment Area 2 located in Palm Beach County. In addition, District lands have also been utilized to provide opportunities for injured service members to participate in public hunts administered by the Florida Fish and Wildlife Conservation Commission with the support of local conservation organizations. Both of these programs have been well received and supported by program participants as well as partnering agencies and conservation organizations.

The proposed Resolution would expand these programs and authorize District staff to coordinate with the Florida Fish and Wildlife Conservation Commission to identify and incorporate additional District lands into the Youth Hunting Program of Florida and allow hunts for injured active duty service members or injured honorably discharged veterans in 2013 and in subsequent years. Both programs would be administered by the Florida Fish and Wildlife Conservation Commission to allow individuals to participate in a variety of experiences including hunting, camping, outdoor and environmental education, and nature appreciation. The Florida Fish and Wildlife Conservation Commission would work with partnering organizations to provide these opportunities, including the selection and/or verification of participants and ensure that volunteers are provided to assist in conducting the hunts.

The Florida Fish and Wildlife Conservation Commission is supportive of conducting both programs on District lands and would coordinate closely with District staff on the selection of appropriate District properties and the implementation of these programs to assure compatibility with on-going land management activities, project implementation and other public uses.

How this helps meet the District's Mission:
This will expand resource-based public recreation on District lands consistent with the District's Public Recreational Access and Use Policy and legislative directives.

Funding Source:
This item does not require the expenditure of additional District funds.

This Board item impacts what areas of the District, both resource areas and geography:
Lands for these programs will be selected from all areas of the District. The proposed action would impact the Land Resources Bureau within the Operations, Maintenance, and Construction Division.

What concerns could this Board item raise?
Concerns of a general nature could be raised regarding opening areas to hunting. However, hunting on District lands occurs in remote areas and has been a previously approved activity administered in partnership with the Florida Fish and Wildlife Conservation Commission without incident.

Why should the Governing Board approve this item?
This proposal would increase recreational opportunities on District lands consistent with agency policy and legislative directives.

SOUTH FLORIDA WATER MANAGEMENT DISTRICT

(ID # 1277)

A Resolution of the Governing Board of the South Florida Water Management District authorizing the Florida Fish and Wildlife Conservation Commission to utilize District lands for the Youth Hunting Program of Florida and hunts for injured active duty service members or injured honorably discharged veterans on such lands, subject to terms and conditions; providing an effective date. (OMC, Dan Cotter, ext. 2301)

WHEREAS, pursuant to Rule 40E-7.527, Florida Administrative Code, public hunting on District Lands may only be established with the approval of the Governing Board, and such hunting shall be regulated, administered and enforced by the Florida Fish and Wildlife Conservation Commission (the "Commission"); and

WHEREAS, the Governing Board of the South Florida Water Management District deems it necessary, appropriate, and in the public interest to authorize the Commission to utilize District Lands to administer hunting and associated activities in support of the Youth Hunting Program of Florida and hunts for injured active duty service members or injured honorably discharged veterans, subject to certain terms and conditions; and

WHEREAS, the Commission staff will work in consultation with South Florida Water Management District staff to select and utilize appropriate District lands to support these programs and assure compatibility with on-going land management, project implementation, and other public uses; and

WHEREAS, the Commission will ensure that on-site volunteers are provided to support hunting and associated activities administered through the Youth Hunting Program of Florida and hunts for injured active duty service members or injured honorably discharged veterans.

NOW THEREFORE, **BE IT RESOLVED** by the Governing Board of the South Florida Water Management District:

Section 1. The Governing Board of the South Florida Water Management District hereby authorizes the Florida Fish and Wildlife Conservation Commission to conduct hunting and associated activities in support of the Youth Hunting Program of Florida and hunts for injured active duty service members or injured honorably discharged veterans on District Lands as identified by District staff for the 2013 and future hunting seasons, subject to the terms and conditions referenced hereinabove and all applicable laws, statutes, regulations and other requirements.

Section 2. This Resolution shall take effect immediately upon adoption.

PASSED and **ADOPTED** this 13th day of June, 2013.

SOUTH FLORIDA WATER MANAGEMENT DISTRICT, BY ITS GOVERNING BOARD
By:

_____
Chairman

Attest:

_____
District Clerk/Secretary

Legal form approved:
By:

_____
Office of Counsel

Print name:

_____

M E M O R A N D U M

TO: Governing Board Members

FROM: Karen Estock, Division Director

DATE: June 13, 2013

SUBJECT: Clewiston Slope Mowing - Contract Number 4600002882

Agenda Item Description
A Resolution of the Governing Board of the South Florida Water Management District to authorize entering into a three-year contract with two (2) one-year renewal options with All Seasons Landscape Contractors, Inc., the lowest responsive and responsible bidder for Slope Mowing Services in the Clewiston Field Station area, in the amount of $236,600.00 for three (3) years, of which $33,800.00 in ad valorem funds are budgeted and the remainder is subject to Governing Board approval of the FY14-FY16 budgets; providing an effective date.

Background
Maintenance of the Right of Ways is required to ensure that vegetation is controlled at a manageable height and will uphold the operational integrity of the District's flood control system. This project for the Clewiston Field Station area, will contract approximately 1,820 acres to be mowed on an annual basis. The lowest responsive and responsible bidder is All Seasons Landscape Contractors, Inc., at $130.00 per acre. Since this is a work order contract, the amount of acres to be mowed will fluctuate, based on the weather, budget, and construction projects in these areas.

Core Mission and Strategic Priorities
Mowing the District's Right of Ways will reduce and control vegetative growth along canal banks which can impede operations, inspections and access to the District's water control facility.

Funding Source
This is a three-year contract with two (2) one-year renewal options, in the amount of $236,600.00 for which $33,800.00 in ad valorem funds are budgeted in FY13 and the remainder is subject to Governing Board approval of the FY14-FY16 budgets.

Staff Recommendation
Staff recommends authorizing the approval of Contract Number 4600002882, as this item supports continual operations and maintenance of the District canal system. If not mowed and maintained, these areas would become a potential hazard to the public as well as District employees.

If you have any questions, please call Karen A. Estock., at ext. 6282 or Joel Arrietta at ext. 2867.

SOUTH FLORIDA WATER MANAGEMENT DISTRICT

(ID # 1316)

A Resolution of the Governing Board of the South Florida Water Management District to authorize entering into a three-year contract with two (2) one-year renewal options with All Seasons Landscape Contractors, Inc., the lowest responsive and responsible bidder, for Slope Mowing Services in the Clewiston Field Station area, in the amount of $236,600 for three years, of which $33,800 in ad valorem funds are budgeted and the remainder is subject to Governing Board approval of the FY14-FY16 budgets; providing an effective date. (Contract Number 4600002882) (OMC, Mitchell Murphy, ext. 3218)

WHEREAS, the Governing Board of the South Florida Water Management District deems it necessary, appropriate and in the public interest to authorize entering into a three-year contract with two (2) one-year renewal options with All Seasons Landscape Contractors, Inc., the lowest responsive and responsible bidder, for Slope Mowing Services in the Clewiston Field Station area, in the amount of $236,600.00 for three (3) years, of which $33,800.00 in ad valorem funds are budgeted and the remainder is subject to Governing Board approval of the FY14-FY16 budgets; providing an effective date.

NOW THEREFORE, BE IT RESOLVED BY THE GOVERNING BOARD OF THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT:

Section 1. The Governing Board of the South Florida Water Management District hereby authorizes the execution of Contract Number 4600002882 with All Seasons Landscape Contractors, Inc.

Section 2. This resolution shall take effect immediately upon adoption.

PASSED and **ADOPTED** this 13th day of June, 2013.

SOUTH FLORIDA WATER MANAGEMENT DISTRICT, BY ITS GOVERNING BOARD
By:

_____
Chairman

Attest:

_____
District Clerk/Secretary

Legal form approved:
By:

_____
Office of Counsel

Print name:

_____

M E M O R A N D U M

TO: Governing Board Members

FROM: Jeff Kivett, Division Director

DATE: June 13, 2013

SUBJECT: Environmental Risk Assessment - Contract Number 4600002401

Agenda Item Description:
This item is before the Governing Board to increase the Environmental Risk Assessment Service work order contracts expenditure budget cap. The above described contracts were issued to WRS Infrastructure, Tetra Tech Environmental Services, URS Corporation (URS), Professional Service Industries, Inc. (PSI) and Environmental Consulting & Technology, Inc. (ECT). These contracts were executed in 2011 with a three year contract period and 2, one year extensions. The contract included a $900,000 expenditure cap. The previous amounts were developed prior to the implementation of the recent Everglades Restoration Strategies Regional Water Quality Program projects which have required additional environmental and ecological assessment activities that were not consider. The agenda request is to increase the contract in an amount not-to-exceed $900,000.

Background, Core Mission and Strategic Priorities:
These contracts are currently used to support the District's construction, engineering, planning, real-estate and O&M activities. The contract provides contractual services to assist with land acquisition process, contaminate and ecological assessment and corrective actions. These contracts also provide a critical ecological assessment service to Everglades Restoration Strategies Regional Water Quality Program, including the STA -1 W Expansion, A1 Project, and the L-8 Project as well as other real estate and O&M projects.

Funding Source:
These contracts do not include a specific funding source. The funding for the contracts is provided on a project basis to support other approved and funded projects. These specific projects include Everglades Restoration Strategies Regional Water Quality Program; land acquisitions and support to the District O&M facilities i.e. air permitting, dredge projects and emergency response.

Staff Recommendation:
The proposed project contract budget cap increases are recommended for approval to ensure that restoration project design and permitting as well as land acquisitions activities are not delayed. These contracts are critical to obtain the United State Fish & Wild Life Services (FWS) and the Florida Department of Environmental Protection approval and concurrence for plans and permits associated with District planning and Flood control operating facility.

If you have any questions, please call Jeff Kivett at ext. 2680.

SOUTH FLORIDA WATER MANAGEMENT DISTRICT

Resolution No. 2013 - 0604

A Resolution of the Governing Board of the South Florida Water Management District to authorize an amendment to Work Order Contract 4600002401 with Environmental Consulting and Technology Inc., for Environmental Risk Assessment Services, to increase the contract in an amount not-to-exceed $900,000 for which $400,000 is budgeted and the remainder is subject to Governing Board approval of the FY14-FY16 budgets; providing an effective date. (Contract Number 4600002401) (OMC, Robert Kukleski, ext. 3337)

WHEREAS, the South Florida Water Management District (SFWMD) conducts environmental assessment, remediation, permitting and regulatory compliance activities in support of SFWMD operating, construction, land management and land acquisition objectives; and

WHEREAS, the SFWMD requires contracted external resources and technical support to conduct these tasks; and

WHEREAS, the purpose of this contract is to provide Environmental Risk Assessment Services that primarily support the Everglades Restoration, Field Operations and Land Management and Capital Projects Resource Area; and

WHEREAS, to a lesser degree, the contracted resources are utilized by the majority of the resource areas and departments within the SFWMD; and

WHEREAS, the contract is one of five contracts that were awarded to establish a pool of qualified environmental consulting firms, possessing the depth of experience, skill, personnel and equipment to assist SFWMD staff in conducting pre-transactional environmental assessments on properties identified for land acquisition; and

WHEREAS, in addition, the firm is qualified to conduct assessment and remedial activities on selected properties, where SFWMD has assumed responsibilities for necessary corrective action; and

WHEREAS, this corrective action component is particularly significant with the emphasis upon construction projects; and

WHEREAS, furthermore, the firm is qualified to assist with the management of the SFWMD petroleum storage tank systems, air permitting associated with SFWMD facilities, management of SFWMD generated hazardous/industrial waste, and emergency response incidents; and

WHEREAS, the contract is utilized to support critical District resource areas and

programs, as well to assist in maintaining compliance with applicable state and federal laws; and

WHEREAS, this action also assures that necessary Environmental Risk Assessment Services are available to accomplish the objectives set forth in the District's strategic plan; and

WHEREAS, the not to exceed cap of $900,000 was based on the projected work during the contract negotiation period; and

WHEREAS, the District's expedited activities associated with the recent Everglades Restoration Strategies Regional Water Quality Program, including the STA - 1 W Expansion, A1 Project and the L-8 Project as well as other real estate and Operation and Maintenance projects, the increase to the existing funding authorization is needed to allow for the continuing environmental engineering services; and

WHEREAS, The Governing Board of the South Florida Water Management District deems it necessary, appropriate and in the public interest to authorize an amendment to Work Order Contract 4600002401 with Environmental Consulting and Technology Inc., for Environmental Risk Assessment Services, to increase the contract in an amount not-to-exceed $900,000 for which $400,000 is budgeted and the remainder is subject to Governing Board approval of the FY14-FY16 budgets; and

NOW THEREFORE, BE IT RESOLVED by the Governing Board of the South Florida Water Management District:

Section 1. The Governing Board of the SFWMD hereby approves an amendment to Work Order Contract 4600002401 with Environmental Consulting and Technology Inc., for Environmental Risk Assessment Services, to increase the contract in an amount not-to-exceed $900,000 from $900,000 to $1,800,000:

Section 2. This Resolution shall take effect immediately upon adoption.

PASSED and **ADOPTED** this 13th day of June, 2013.

SOUTH FLORIDA WATER MANAGEMENT DISTRICT, BY ITS GOVERNING BOARD
By:

_____
Chairman

Attest:

_____
District Clerk/Secretary

Legal form approved:
By:

_____
Office of Counsel

Print name:

_____

M E M O R A N D U M

TO: Governing Board Members

FROM: Jeff Kivett, Division Director

DATE: June 13, 2013

SUBJECT: Environmental Risk Assessment - Contract Number 4600002399

Agenda Item Description:
This item is before the Governing Board to increase the Environmental Risk Assessment Service work order contracts expenditure budget cap. The above described contracts were issued to WRS Infrastructure, Tetra Tech Environmental Services, URS Corporation (URS), Professional Service Industries, Inc. (PSI) and Environmental Consulting & Technology, Inc. (ECT). These contracts were executed in 2011 with a three year contract period and 2, one year extensions. The contract included a $900,000 expenditure cap. The previous budget cap were developed prior to the implementation of the recent Everglades Restoration Strategies Regional Water Quality Program projects which have required additional environmental and ecological assessment activities that were not consider. The agenda request is to increase the contract in an amount not-to-exceed $900,000.

Background, Core Mission and Strategic Priorities:
These contracts are currently used to support the District's construction, engineering, planning, real-estate and O&M activities. The contract provides contractual services to assist with land acquisition process, contaminate and ecological assessment and corrective actions. These contracts also provide a critical ecological assessment service to Everglades Restoration Strategies Regional Water Quality Program, including the STA -1 W Expansion, A1 Project, and the L-8 Project as well as other real estate and O&M projects.

Funding Source:
These contracts do not include a specific funding source. The funding for the contracts is provided on a project basis to support other approved and funded projects. These specific projects include Everglades Restoration Strategies Regional Water Quality Program; land acquisitions and support to the District O&M facilities i.e. air permitting, dredge projects and emergency response.

Staff Recommendation:
The proposed project contract budget cap increases are recommended for approval to ensure that restoration project design and permitting as well as land acquisitions activities are not delayed. These contracts are critical to obtain the United State Fish & Wild Life Services (FWS) and the Florida Department of Environmental Protection approval and concurrence for plans and permits associated with District planning and Flood control operating facility

If you have any questions, please call Jeff Kivett at ext. 2680.

SOUTH FLORIDA WATER MANAGEMENT DISTRICT

Resolution No. 2013 - 0605

A Resolution of The Governing Board of The South Florida Water Management District to authorize an amendment to Work Order Contract 4600002399 with Professional Service Industries, Inc., for Environmental Risk Assessment Services, to increase the contract in an amount not-to-exceed $900,000 for which $400,000 is budgeted and the remainder is subject to Governing Board approval of the FY14-FY16 budgets; providing an effective date. (Contract Number 4600002399) (OMC, Robert Kukleski, ext. 3337)

WHEREAS, the South Florida Water Management District (SFWMD) conducts environmental assessment, remediation, permitting and regulatory compliance activities in support of SFWMD operating, construction, land management and land acquisition objectives; and

WHEREAS, the SFWMD requires contracted external resources and technical support to conduct these tasks; and

WHEREAS, the purpose of this contract is to provide Environmental Risk Assessment Services that primarily support the Everglades Restoration, Field Operations and Land Management and Capital Projects Resource Area; and

WHEREAS, to a lesser degree, the contracted resources are utilized by the majority of the resource areas and departments within the SFWMD; and

WHEREAS, the contract is one of five contracts that were awarded to establish a pool of qualified environmental consulting firms, possessing the depth of experience, skill, personnel and equipment to assist SFWMD staff in conducting pre-transactional environmental assessments on properties identified for land acquisition; and

WHEREAS, in addition, the firm is qualified to conduct assessment and remedial activities on selected properties, where SFWMD has assumed responsibilities for necessary corrective action; and

WHEREAS, this corrective action component is particularly significant with the emphasis upon construction projects; and

WHEREAS, furthermore, the firm is qualified to assist with the management of the SFWMD petroleum storage tank systems, air permitting associated with SFWMD facilities, management of SFWMD generated hazardous/industrial waste, and emergency response incidents; and

WHEREAS, the contract is utilized to support critical District resource areas and programs, as well to assist in maintaining compliance with applicable state and federal

laws; and

WHEREAS, this action also assures that necessary Environmental Risk Assessment Services are available to accomplish the objectives set forth in the District's strategic plan; and

WHEREAS, the not to exceed cap of $900,000 was based on the projected work during the contract negotiation period; and

WHEREAS, the District's expedited activities associated with the recent Everglades Restoration Strategies Regional Water Quality Program, including the STA - 1 W Expansion, A1 Project and the L-8 Project as well as other real estate and Operation and Maintenance projects, the increase to the existing funding authorization is needed to allow for the continuing environmental engineering services; and

WHEREAS, The Governing Board of the South Florida Water Management District deems it necessary, appropriate and in the public interest to authorize an amendment to Work Order Contract 4600002399 with Professional Service Industries, Inc., for Environmental Risk Assessment Services, to increase the contract in an amount not-to-exceed $900,000 for which $400,000 is budgeted and the remainder is subject to Governing Board approval of the FY14-FY16 budgets; and

NOW THEREFORE, BE IT RESOLVED by the Governing Board of the South Florida Water Management District:

Section 1. The Governing Board of the SFWMD hereby approves an amendment to Work Order Contract 4600002399 with Professional Service Industries, Inc., for Environmental Risk Assessment Services, to increase the contract in an amount not-to-exceed $900,000 from $900,000 to $1,800,000:

Section 2. This Resolution shall take effect immediately upon adoption.

PASSED and **ADOPTED** this 13th day of June, 2013.

SOUTH FLORIDA WATER MANAGEMENT DISTRICT, BY ITS GOVERNING BOARD
By:

_____
Chairman

Attest:

_____
District Clerk/Secretary

Legal form approved:
By:

_____
Office of Counsel

Print name:

_____

M E M O R A N D U M

TO: Governing Board Members

FROM: Jeff Kivett, Division Director

DATE: June 13, 2013

SUBJECT: Environmental Risk Assessment - Contract Number 4600002397

Agenda Item Description:
This item is before the Governing Board to increase the Environmental Risk Assessment Service work order contracts expenditure budget cap. The above described contracts were issued to WRS Infrastructure, Tetra Tech Environmental Services, URS Corporation (URS), Professional Service Industries, Inc. (PSI) and Environmental Consulting & Technology, Inc. (ECT). These contracts were executed in 2011 with a three year contract period and 2, one year extensions. The contract included a $900,000 expenditure cap. The previous amount was developed prior to the implementation of the recent Everglades Restoration Strategies Regional Water Quality Program projects which have required additional environmental and ecological assessment activities that were not consider. The agenda request is to increase the contract limit in a not-to-exceed $500,000 contract for a total contract amount of $1,400,000.

Background, Core Mission and Strategic Priorities:
These contracts are currently used to support the District's construction, engineering, planning, real-estate and O&M activities. The contract provides contractual services to assist with land acquisition process, contaminate and ecological assessment and corrective actions. These contracts also provide a critical ecological assessment service to Everglades Restoration Strategies Regional Water Quality Program, including the STA -1 W Expansion, A1 Project, and the L-8 Project as well as other real estate and O&M projects.

Funding Source:
These contracts do not include a specific funding source. The funding for the contracts is provided on a project basis to support other approved and funded projects. These specific projects include Everglades Restoration Strategies Regional Water Quality Program; land acquisitions and support to the District O&M facilities i.e. air permitting, dredge projects and emergency response.

Staff Recommendation:
The proposed project contract budget cap increases are recommended for approval to ensure that restoration project design and permitting as well as land acquisitions activities are not delayed. These contracts are critical to obtain the United State Fish & Wild Life Services (FWS) and the Florida Department of Environmental Protection approval and concurrence for plans and permits associated with District planning and Flood control operating facility.

If you have any questions, please call Jeff Kivett at ext. 2680.

SOUTH FLORIDA WATER MANAGEMENT DISTRICT

Resolution No. 2013 - 0606

A Resolution of the Governing Board of the South Florida Water Management District to authorize an amendment to Work Order Contract 4600002397 with URS Corporation, for Environmental Risk Assessment Services, to increase the contract in an amount not-to-exceed $500,000 for which $400,000 is budgeted and the remainder is subject to Governing Board approval of the FY14-FY16 budgets; providing an effective date. (Contract Number 4600002397) (OMC, Robert Kukleski, ext. 3337)

WHEREAS, the South Florida Water Management District (SFWMD) conducts environmental assessment, remediation, permitting and regulatory compliance activities in support of SFWMD operating, construction, land management and land acquisition objectives; and

WHEREAS, the SFWMD requires contracted external resources and technical support to conduct these tasks; and

WHEREAS, the purpose of this contract is to provide Environmental Risk Assessment Services that primarily support the Everglades Restoration, Field Operations and Land Management and Capital Projects Resource Area; and

WHEREAS, to a lesser degree, the contracted resources are utilized by the majority of the resource areas and departments within the SFWMD; and

WHEREAS, the contract is one of five contracts that were awarded to establish a pool of qualified environmental consulting firms, possessing the depth of experience, skill, personnel and equipment to assist SFWMD staff in conducting pre-transactional environmental assessments on properties identified for land acquisition; and

WHEREAS, in addition, the firm is qualified to conduct assessment and remedial activities on selected properties, where SFWMD has assumed responsibilities for necessary corrective action; and

WHEREAS, this corrective action component is particularly significant with the emphasis upon construction projects; and

WHEREAS, furthermore, the firm is qualified to assist with the management of the SFWMD petroleum storage tank systems, air permitting associated with SFWMD facilities, management of SFWMD generated hazardous/industrial waste, and emergency response incidents; and

WHEREAS, the contract is utilized to support critical District resource areas and programs, as well to assist in maintaining compliance with applicable state and federal

laws; and

WHEREAS, this action also assures that necessary Environmental Risk Assessment Services are available to accomplish the objectives set forth in the District's strategic plan; and

WHEREAS, the not to exceed cap of $500,000 was based on the projected work during the contract negotiation period; and

WHEREAS, the District's expedited activities associated with the recent Everglades Restoration Strategies Regional Water Quality Program, including the STA - 1 W Expansion, A1 Project and the L-8 Project as well as other real estate and Operation and Maintenance projects, the increase to the existing funding authorization is needed to allow for the continuing environmental engineering services; and

WHEREAS, The Governing Board of the South Florida Water Management District deems it necessary, appropriate and in the public interest to authorize an amendment to Work Order Contract 4600002397 with URS Corporation, for Environmental Risk Assessment Services, to increase the contract in an amount not-to-exceed $500,000 for which $400,000 is budgeted and the remainder is subject to Governing Board approval of the FY14-FY16 budgets; and

NOW THEREFORE, BE IT RESOLVED by the Governing Board of the South Florida Water Management District:

Section 1. The Governing Board of the SFWMD hereby approves an amendment to Work Order Contract 4600002397 with URS Corporation, for Environmental Risk Assessment Services, to increase the contract in an amount not-to-exceed $500,000 from $900,000 to $1,400,000:

Section 2. This Resolution shall take effect immediately upon adoption.

PASSED and **ADOPTED** this 13th day of June, 2013.

SOUTH FLORIDA WATER MANAGEMENT DISTRICT, BY ITS GOVERNING BOARD
By:

_____
Chairman

Attest:

_____
District Clerk/Secretary

Legal form approved:
By:

_____
Office of Counsel

Print name:

_____

M E M O R A N D U M

TO: Governing Board Members

FROM: Terrie Bates, Director, Water Resources Division

DATE: June 13, 2013

SUBJECT: Influence of Ecohydrological Inflows on Central Florida Bay Coastal Systems

Agenda Item Description
A Resolution of the Governing Board of the South Florida Water Management District authorizing entering into a three-year agreement with Florida International University for conducting the project Influence of Ecohydrological Inflows on Central Florida Bay Coastal Systems in an amount of $276,354, for which $130,930 in Florida Bay special revenue funds are budgeted and the remainder is subject to Governing Board approval of the FY14-FY15 budgets; providing an effective date. (Contract No. 4600002866) (WR, Christopher Madden, ext. 4647)

Background
The C-111 Spreader Canal, Western Features Project was initiated in July 2012 with the implementation of the new S-199 and S-200 pump stations, opening of the Frog Pond detention area, and creation of a hydrologic barrier at the Aerojet Canal extension to reduce seepage from Taylor Slough toward the C-111 Basin to the east. The goal of this project is to use hydrologic monitoring data to facilitate the retention of additional fresh water in Taylor Slough and in downstream deliveries to central Florida Bay. This contract will monitor the additional fresh water flow delivered and detect changes in salinity, nutrients and downstream discharge that derive from the C-111 project.

Core Mission and Strategic Priorities
This item is aligned with the District mission to protect water resources and with several District priorities as identified in the 2012-2017 Strategic Plan. It supports a critical CERP project intended to improve the quantity, quality, timing and distribution of water delivered to fresh water wetlands of Taylor Slough and the coastal ecosystem in Florida Bay via science-based research and monitoring. The C-111 Spreader Canal project is identified in the Strategic Plan as the only Key Natural Systems project in the Southern Everglades. This contract supports the District's goal of habitat restoration and is also an integral component of the goal to collect hydrological data for the purpose of flow determination and hydrological basin management.

Funding Source
This funding request in an amount of $276,354, for which $130,930 in Florida Bay special revenue funds are budgeted in FY13 and the remainder is subject to Governing Board approval of the FY14-15 budgets; providing an effective date.

This Board item impacts what areas of the District, both resources areas and geography:
This item will be implemented and managed by the Everglades Systems Assessment Section. It will be conducted in Taylor Slough southwest of the L-31W Canal and S-332 Structures.

Staff Recommendation

Staff recommends approval of this agreement, which will allow the District to collect data and analyze information about the performance of the C-111 Spreader Canal, Western Features Project, determine its effects on critical habitat areas in southern Taylor Slough and Florida Bay, and to monitor water quality issues that may be impacted.

If you have any questions, please call Terrie Bates at ext. 6952 or Linda Lindstrom at ext. 6820.

SOUTH FLORIDA WATER MANAGEMENT DISTRICT

Resolution No. 2013 - 0607

A Resolution of the Governing Board of the South Florida Water Management District authorizing entering into a three-year agreement with Florida International University for Influence of Ecohydrological Inflows on Central Florida Bay Coastal Systems in the amount of $276,354, of which $130,930 is allocated for FY13, budgeted from Florida Bay Special Revenue Funds, and the remainder is subject to Governing Board approval of the FY14-FY15 budgets; providing an effective date. (Contract No. 4600002866) (WR, Christopher Madden, ext. 4647)

WHEREAS, the Governing Board of the South Florida Water Management District deems it necessary, appropriate and in the public interest to authorize the execution of a three-year agreement, Contract No. 4600002866, with Florida International University in the amount of $276,354, subject to Governing Board approval of the FY14-FY15 budgets, to measure groundwater and surface water sources, hydrology, and salinity in Taylor Slough and impacts of the C-111 Spreader Canal Project on wetlands and downstream waters of Florida Bay, and;

WHEREAS, the beneficial effects of hydrologic restoration of Taylor Slough and Florida Bay by the C-111 Spreader Canal Project will be measured and documented by this work;

NOW THEREFORE, BE IT RESOLVED BY THE GOVERNING BOARD OF THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT:

Section 1. The Governing Board of the South Florida Water Management District hereby authorizes the execution of Contract No. 4600002866 with Florida International University.

Section 2. This resolution shall take effect immediately upon adoption.

PASSED and **ADOPTED** this 13th day of June, 2013.

SOUTH FLORIDA WATER MANAGEMENT DISTRICT, BY ITS GOVERNING BOARD
By:

_____
Chairman

Attest:

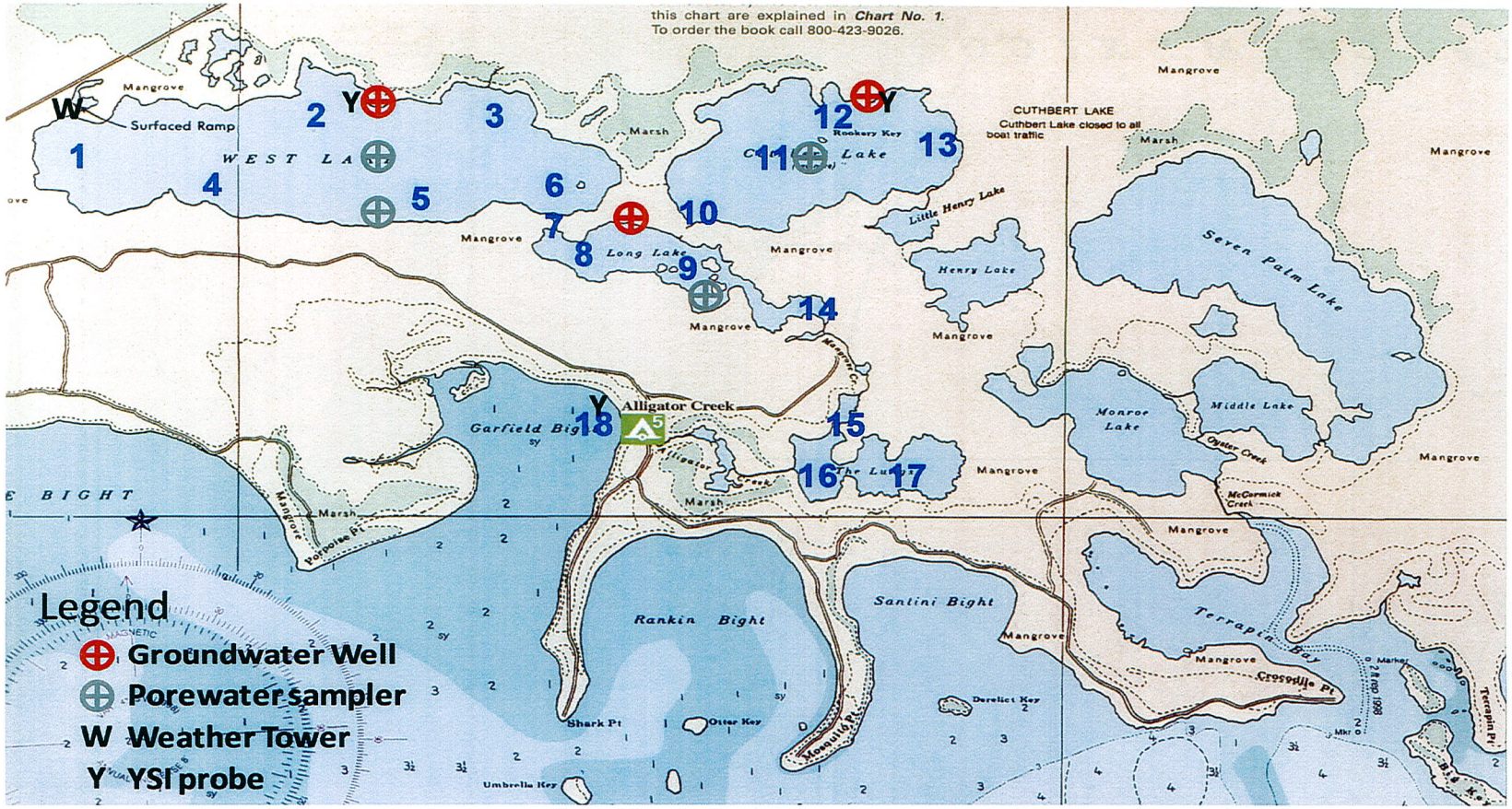
_____
District Clerk/Secretary

Legal form approved:
By:

_____
Office of Counsel

Print name:

_____



Site map showing locations of sampling stations. Numbers 1-18 indicate approximate locations of surface water sampling sites collected bi-monthly for 18 months. Red circles with crosses represent the locations of 3 groundwater monitoring wells equipped with pressure transducers inside and outside of the wells to continuously monitor groundwater and surface water levels. Grey circles with crosses represent the locations of 4 temporary porewater samplers that will be sampled bi-monthly for 18 months. A weather tower will be installed at location W, at the building located by the boat launch at West Lake. YSI probes that monitor conductivity, salinity, temperature, and D.O. are located at locations designated with a Y.

Attachment: ca_wr_100_ExhA_map (Resolution No. 2013 - 0607 : Influence of Ecohydrological Inflows on Central Florida Bay Coastal

M E M O R A N D U M

TO: Governing Board Members

FROM: Doug Bergstrom, Director, Administrative Services Division

DATE: June 13, 2013

SUBJECT: June Governing Board - Budget Transfer for Fuel & Electric

Background: The fuel and electric needs of the District fluctuate in response to a number of factors including weather; wet or dry events, water quality, and fuel prices. The purpose of this resolution is to provide maximum flexibility within the existing budget appropriation to respond to District fuel and electric demands to respond to operational requirements within FY2013. The $50M Economic Stabilization Reserve will be accessed only as a last resort because that would trigger repayment requirements within a three year period per District policy.

> **$3,000,000** - Transferring ad valorem funds among the District Divisions, District Programs and from Managerial Reserves (as a last resort) as needed to respond to District fuel and electric demands in support of operational requirements, primarily for pumping operations.

How this helps meet the District's 10 Year Strategic Plan? Budget transfers will redirect budget authority to support operations to maintain water levels and not impact the progress and completion of projects listed in the District's Annual Work Plan that are linked to the 10 Year Strategic Plan.

Funding Sources Impacted: This resolution could impact all Ad Valorem Funds.

This Board item impacts the following areas of the District, both division and geography: This resolution could impact all of the Divisions of the District in response to fuel and electric demands during FY2013. The District's geography in whole is potentially impacted by this item dependent on weather, science and economic conditions during FY2013.

What concerns could this Board item raise? Transactions will not alter the overall budget amount. Transfers will be processed if current authority is expended; this agenda item provides the authority to transfer up to $3,000,000 as needed dependent on fuel and electric demands during FY2013.

Why should the Governing Board approve this item? In accordance with the District's budgetary and financial control policy, any transfer of budget authority between divisions and/or between programs and between bureaus or program elements that exceed the non-capital threshold of $150,000 and the capital threshold of $500,000 requires Governing Board approval.

If you have any questions, please do not hesitate to call me at ext. 6214.

DB/MS/mq

SOUTH FLORIDA WATER MANAGEMENT DISTRICT

(ID # 1304)

A Resolution of the Governing Board of the South Florida Water Management District authorizing the transfer of funds within the District's FY12-13 budget to fund District fuel & electric demands as needed to respond to operational requirements; providing an effective date. (AS, Mike Smykowski, ext. 6295)

WHEREAS, Section 373.536 (4)(a), Florida Statutes, provides that transfers of funds may be made within the budget by action of the Governing Board at a public meeting of the governing board; and

WHEREAS, a request is being brought to the Governing Board for the authorization to transfer funds within the District FY2012-2013 budget for the purpose of responding to District fuel and electric demands up to $3,000,000; and

WHEREAS the Executive Director recommends that this transfer be approved in order to facilitate the operations of the District; now therefore

BE IT RESOLVED BY THE GOVERNING BOARD OF THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT:

Section 1. The Governing Board of the South Florida Water Management District hereby approves the FY2012-2013 budget transfer for the purpose of responding to District fuel and electric demands up to $3,000,000.

Section 2. This Resolution shall take effect immediately upon adoption.

PASSED and **ADOPTED** this 13 day of June, 2013.

SOUTH FLORIDA WATER MANAGEMENT DISTRICT, BY ITS GOVERNING BOARD
By:

_____
Chairman

Attest:

_____
District Clerk/Secretary

Legal form approved:
By:

_____
Office of Counsel

Print name:

_____

M E M O R A N D U M

TO: Governing Board Members

FROM: Doug Bergstrom, Director, Administrative Services Division

DATE: June 13, 2013

SUBJECT: Second Supplement to Series 2006 Ground Lease and Second Amendment to Schedule 2006

Background

The Governing Board of the South Florida Water Management District (District) also serves as the Board of Directors for the South Florida Water Management District Leasing Corporation (Corporation). On November 1, 2006 a Master Lease Purchase Agreement was approved in which the Leasing Corporation agreed to lease purchase and the Governing Board agreed to finance, through the issuance of Certificates of Participation (COPs), the following Series 2006 Facilities: the Everglades Agricultural Area (EAA) Reservoir, C-44 Reservoir/Stormwater Treatment Area Test Cells, C-43 West Reservoir Test Cells, and the EAA Stormwater Treatment Area Expansion. Collateral for the lease-purchase agreement was provided through the Series 2006 Ground Lease for the land underlying these projects.

When the EAA Reservoir project was placed on hold, the Governing Board approved the first Supplement to the Series 2006 Ground Lease on February 12, 2009, which released the real property on which the EAA Reservoir was to be located from the terms of the Series 2006 Ground Lease, and incorporated the Compartment B and C Buildout projects land into the ground lease.

As part of the Governor's Restoration Strategies Initiative, the District has proposed to construct the A-1 Flow Equalization Basin (A-1 FEB) on the EAA Reservoir footprint. The A-1 FEB is a planned 60,000 acre-feet storage feature that will be used to capture and store peak stormwater flows, allowing water managers to move water from the A-1 FEB into a stormwater treatment area (STA) at a steady rate to optimize STA performance and achieve water quality improvement targets.

Incorporating the A-1 FEB project into the lease agreement will require the Governing Board and the Leasing Corporation to each approve two amending documents, the ground lease and the master lease. Subjecting the EAA Reservoir parcel to the terms of the ground lease requires execution of the Second Supplement to the Series 2006 Ground Lease, and incorporating the A-1 FEB project into the master lease agreement requires execution of the Second Amendment to Schedule 2006 (of the Master Lease).

How this helps meet the District's 10-year Strategic Plan:

Amending the COPs documents will allow the District to proceed with the construction of the A-1 FEB, which is a key project in the Governor's Restoration Strategies Initiative and is also included in the District's approved Five-Year Capital improvements Plan.

Funding Sources:

The principal funding source for the A-1 Flow Equalization Basin project is Series 2006 COPs proceeds, supplemented by one-time ad valorem fund balance. This project is included in the District's Spend Down Plan.

This Board item impacts what areas of the District, both division and geography:
The A-1 Flow Equalization Basin project is located in Palm Beach County and the project construction will be managed by the Operations, Maintenance and Construction Division.

What concerns could this Board item raise?
Ambac Assurance Corporation, in its capacity as the Credit Facility Issuer under the Master Lease, has consented to the changes in the Second Supplement to Series 2006 Ground Lease and Second Amendment to Schedule 2006 (projects in the Master Lease Agreement).

Why should the Governing Board approve this item?
Approving this item will provide the principal funding source for a key project in the Governor's Restoration Strategies Initiative.

If you have any questions, please do not hesitate to call me at ext. 6214.

DB/MS
Attachments

SOUTH FLORIDA WATER MANAGEMENT DISTRICT

Resolution No. 2013 - 0609

A Resolution of the Governing Board of the South Florida Water Management District authorizing the addition of facilities pursuant to the Master Lease Purchase Agreement dated as of November 1, 2006; authorizing the execution and delivery of a second supplement to Series 2006 Ground Lease and a second amendment to Schedule 2006 in connection therewith; authorizing the ground lease of certain lands; providing an effective date (AS, Mike Smykowski, ext. 6295).

WHEREAS, pursuant to Section 373.0831, Florida Statutes the Florida Legislature found that the proper role of water management districts in water supply is primarily planning and water resource development; and

WHEREAS, pursuant to Section 373.0831 (2) Florida Statutes, it was the intent of the Florida Legislature that water management districts, which includes the South Florida Water Management District (the "District"), take the lead in identifying and implementing water resource development projects and be responsible for securing funding for regionally significant water resource development projects as such term is defined in Section 373.019, Florida Statutes; and

WHEREAS, the Governing Board of the District (the "Governing Board"), as Lessee, has previously entered into a Master Lease Purchase Agreement (the "Master Lease") with the South Florida Water Management District Leasing Corp. (the "Corporation"), as Lessor, a not-for-profit corporation established pursuant to Chapter 617, Florida Statutes, as amended, for the purpose of lease-purchase financing and refinancing from time to time certain real property, facilities and related equipment included within the Acceler8 Project (the "Series 2006 Facilities");

WHEREAS, the Master Lease provides that the Facilities to be leased from time to time are identified on separate schedules attached to the Master Lease, including the Schedule 2006 dated as of November 1, 2006, as amended by the First Amendment to Schedule 2006 dated February 12, 2009 (collectively, "Schedule 2006");

WHEREAS, the Governing Board, as Lessor, and the Corporation, as Lessee, previously entered into that certain Series 2006 Ground Lease, as supplemented by the First Supplement to Series 2006 Ground Lease dated as of February 12, 2009 (collectively, the "2006 Ground Lease"); and

WHEREAS, when the Everglades Agricultural Area (the "EAA") Reservoir, which is part of the Acceler8 Project, was placed on hold, the real property on which the EAA Reservoir was to be located (the "EAA Reservoir Parcel") was released from the terms of the 2006 Ground Lease; and

WHEREAS, the District continues to own the EAA Reservoir Parcel; and

WHEREAS, the Governing Board intends to construct the A-1 Flow Equalization Basin (the “A-1 FEB”) on the EAA Reservoir Parcel; and

WHEREAS, the Governing Board desires to supplement the 2006 Ground Lease by executing and delivering the Second Supplement to Series 2006 Ground Lease (the "Second Supplement to Ground Lease") in order to subject the EAA Reservoir Parcel to the terms of the 2006 Ground Lease and to amend the Schedule 2006 to the Master Lease by executing and delivering the Second Amendment to Schedule 2006 (the "Second Amendment to Schedule 2006" and together with the Second Supplement to Ground Lease, the "Amending Documents"); and

WHEREAS, prior to entering into the Second Supplement to Ground Lease, the Governing Board published its intent to lease the EAA Reservoir Parcel as required by Section 373.093, Florida Statutes, as amended; and

WHEREAS, prior to entering into the Amending Documents, the Governing Board and the Corporation obtained the consent of Ambac Assurance Corporation, in its capacity as the Credit Facility Issuer under the Master Lease.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BOARD OF THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT, FLORIDA, as follows:

Recitals. The recitals set forth above are adopted by the Governing Board as the findings of the District and are incorporated herein.

SECTION 1. Authority for this Resolution. This Resolution is adopted pursuant to the provisions of Chapter 373, Florida Statutes, as amended.

SECTION 2. Authorization of Lease-Purchase of Series 2006 Facilities. The Governing Board hereby authorizes the modification of the Series 2006 Facilities in accordance with the terms of the Master Lease as amended and supplemented by the Second Amendment to Schedule 2006.

SECTION 3. Authorization of the Ground Lease of Land to the Corporation. The Governing Board hereby authorizes the ground lease of the EAA Reservoir Parcel to the Corporation pursuant to the Second Supplement to Ground Lease authorized herein.

SECTION 4. Approval and Authorization of Execution and Delivery of Second Amendment to Schedule 2006. The Governing Board hereby authorizes the Chair or Vice-Chair to execute and deliver the Second Amendment to Schedule 2006 between the Governing Board and the Corporation, and the Secretary to attest the same under the seal of the Governing Board, and to deliver the Second Amendment to Schedule 2006 to the Corporation for its execution. The Second Amendment to Schedule 2006 shall be in substantially the form attached hereto as Exhibit A, with such changes, amendments, modifications, omissions and additions as may be approved by such Chair or Vice-Chair. Execution by the Chair or Vice-Chair of the Second Amendment to Schedule 2006 shall be deemed to be conclusive evidence of approval of such changes.

SECTION 5. Approval of a Second Supplement to Ground Lease. The Governing Board hereby authorizes the Chair or Vice-Chair to execute and deliver the Second Supplement to Ground Lease between the Governing Board and the Corporation, and the Secretary to attest the same under the seal of the Governing Board, and to deliver the Second Supplement to Ground Lease to the Corporation for its execution. The Second Supplement to Ground Lease shall be in substantially the form attached hereto as Exhibit B,

with such changes, amendments, modifications, omissions and additions as may be approved by such Chair or Vice-Chair. Execution by the Chair or Vice-Chair of the Second Supplement to Ground Lease shall be deemed to be conclusive evidence of approval of such changes.

SECTION 6. **Additional Authorization.** The Chair, the Vice-Chair, the Executive Director, the Secretary of the District, the Treasurer, the Assistant Executive Director for Business and Regulation, the Administrative Services Division Director, and any other proper official of the District, be and each of them is hereby authorized and directed to execute and deliver any and all documents and instruments and to do and cause to be done any and all acts and things necessary or proper to carry out the transactions contemplated by this Resolution.

SECTION 7. **Severability of Invalid Provisions.** If any one or more of the covenants, agreements or provisions of this Resolution should be deemed contrary to any express provision of law or contrary to the policy of express law, though not expressly prohibited, or against public policy, or shall for any reason whatsoever be held invalid, then such covenants, agreements or provisions shall be null and void and shall be deemed separate from the remaining covenants, agreements or provisions, and shall in no way affect the validity of any of the other provisions of this Resolution.

SECTION 8. **Effective Date.** This Resolution shall take effect upon its passage in the manner provided by law.

SOUTH FLORIDA WATER MANAGEMENT DISTRICT, BY ITS GOVERNING BOARD
By:

_____
Chairman

Attest:

_____
District Clerk/Secretary

Legal form approved:
By:

_____
Office of Counsel

Print name:

_____

SECOND AMENDMENT TO SCHEDULE 2006
dated _____ ___, 2013
to
Master Lease Purchase Agreement dated as of
November 1, 2006 between
South Florida Water Management District Leasing Corp.,
as Lessor (the "Corporation")
and
The Governing Board of the South Florida Water Management District,
as Lessee (the "Governing Board")

THIS SECOND AMENDMENT TO SCHEDULE 2006 (the "Second Amended Schedule 2006") is hereby entered into under and pursuant to that certain Master Lease Purchase Agreement dated as of November 1, 2006 (the "Master Lease"), pursuant to which the Corporation has agreed to lease-purchase unto the Governing Board and the Governing Board has agreed to finance the lease-purchase from the Corporation, subject to the terms and conditions of the Master Lease incorporated herein, the Series 2006 Facilities (the "Series 2006 Facilities") described in Schedule 2006 dated as of November 1, 2006, as amended by the First Amendment to Schedule 2006 dated February 12, 2009 (collectively, "Schedule 2006").

The Corporation and the Governing Board desire to amend Schedule 2006 to add certain Facilities to the list of Series 2006 Facilities and change the budget for the Series 2006 Project. The Master Lease with respect to Schedule 2006, as previously amended, modified and supplemented and as amended, modified and supplemented hereby, is referred to herein as the "Series 2006 Lease." All terms not otherwise defined herein shall have the respective meanings set forth in the Master Lease, as supplemented by Schedule 2006, or in the Trust Agreement, including the Series 2006 Supplemental Trust Agreement. All terms and conditions contained in the Master Lease unless otherwise amended or superseded hereby are incorporated herein by reference.

SECTION 1. Series 2006 Facility to be Lease-Purchased. The general description and the estimated costs of the Series 2006 Facility to be added to the Series 2006 Facilities described in Schedule 2006 are described in Exhibit A hereto. The Governing Board reserves the right to substitute other facilities for the facilities set forth in Schedule 2006 pursuant to the provisions of the Master Lease.

SECTION 2. Series 2006 Facility Site to be Ground Leased to the Corporation. The legal description of the Series 2006 Facility Sites to be ground leased to the Corporation and Permitted Encumbrances in addition to those specified in the Master Lease attached to Schedule 2006 are hereby amended by adding the Facility Site described in Exhibit B attached hereto. Substitution may be made in accordance with the requirements of the Master Lease and the Series 2006 Ground Lease.

IN WITNESS WHEREOF, the Corporation has caused this Second Amendment to Schedule 2006 to be executed in its corporate name by its duly authorized officers, and the Governing Board has caused this Second Amendment to Schedule 2006 to be executed in its name by its duly authorized members or officers on the date set forth below their respective signatures and all as of the day and year first written above.

[SEAL]

Attest:

By:_____
Name:
Title:

SOUTH FLORIDA WATER MANAGEMENT DISTRICT LEASING CORP.

By:_____
Name:
Title:

[SEAL]

Attest:

By:_____
Name:
Title:

THE GOVERNING BOARD OF THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT

By:_____
Name:
Title:

Attachment: Second Amendment to Schedule No 2006 (00505143) (Resolution No. 2013 - 0609 : Second Supplement to Series 2006 Ground

Attachment: Second Amendment to Schedule No 2006 (00505143) (Resolution No. 2013 - 0609 : Second Supplement to Series 2006 Ground

EXHIBIT A
AMENDMENTS TO EXHIBIT A TO SCHEDULE 2006

A. General Description of the Series 2006 Facility to be added:

A-1 FLOW EQUALIZATION BASIN

The A-1 Flow Equalization Basin (FEB) Facility is a 60,000 acre-feet constructed storage feature that will be used to capture and store peak stormwater flows, allowing water managers to move water from the A-1 FEB into a stormwater treatment area (STA) at a steady rate to optimize STA performance and achieve water quality improvement targets.

B. Estimated Costs of the added Series 2006 Facility to be Leased Purchased:

A-1 FLOW EQUALIZATION BASIN

A-1 FEB	$ 45,400,000
Total	**$ 45,400,000**

The amount budgeted for the EAA Reservoir is hereby reduced from $213,065,000 to $167,665,000.

{25280/004/00505143.DOCv1}

Attachment: Second Amendment to Schedule No 2006 (00505143) (Resolution No. 2013 - 0609 : Second Supplement to Series 2006 Ground

EXHIBIT B

Additional Series 2006 Facility Site to be Ground Leased

A. DESCRIPTION OF A-1 FEB SITE (EVERGLADES AREA (EAA) RESERVOIR – PHASE 1A):

A parcel of land lying in Sections 5-9, 16, 17, 20-22, 26-29, a portion of Sections 3, 4, 10, 14, 15, 18, 19, 23-25, 30-36, Township 46 South, Range 37 East Hiatus Lots 4-6 lying between Townships 45 and 46 South, Range 37 East, and a portion of Section 31, Township 46 South, Range 38 East, Palm Beach County, Florida, and being more particularly described as follows:

Commence at the Northwest corner of said Hiatus Lot 6, lying between Townships 45 and 46 South, Range 37 East;

thence South 00° 05' 09" West along the West line of said Hiatus Lot 6, a distance of 8,008.10 feet to the POINT OF BEGINNING;

thence North 89° 33' 55" East, along a line 1,100 feet North of and parallel with the North line of Sections 4, 5 and 6 a distance of 12,054.52 feet, to the Westerly Right-of-Way of State Road 25 (U.S. Highway 27);

thence Southeasterly along said Westerly Right-of-Way line for the following five (5) courses;

thence South 35° 04' 58" East, a distance of 6,669.82 feet;

thence South 35° 04' 30" East, a distance of 5,748.05 feet;

thence South 35° 04' 50" East, a distance of 7,793.22 feet;

thence South 35° 09' 26" East, a distance of 10,182.40 feet;

thence South 35° 00' 29" East, for 7,270.95 feet to a point on a line 1,815 feet North of and parallel with the South Township line of said Township 46 South, Range 37 East;

thence departing aforesaid Westerly Right-of-Way line South 89° 35' 10" West along a line 1,815.00 feet North of and parallel with the South line of said Township 46 South, Range 37 East, a distance of 32,712.70 feet, to a point on a line 380 feet East of and parallel with the West line of said Township 46 South, Range 37 East;

thence Northerly along a line 380.00 feet East of and parallel with said West line for the following two (2) courses;

thence North 01° 08' 34" West, a distance of 14,005.03 feet;
thence North 01° 09' 51" West, for 406.14 feet;

thence South 89° 35' 19" West, a distance of 380.03 feet, to the West line of said Township 46 South, Range 37 East;

thence North 01° 09' 51" West along said West line, a distance of 15,463.80 feet, to the Northwest corner of Section 6, Township 46 South, Range 37 East to the Southwest corner of aforesaid Hiatus Lot 6;

thence Northerly along the West line of said Hiatus Lot 6 for the following two (2) courses;

thence North 01° 09' 52" West, a distance of 566.45 feet;

thence North 00° 05' 09" East a distance of 532.45 feet to the POINT OF BEGINNING.

Containing 15,930.10 Acres, more or less.

B. PERMITTED ENCUMBRANCES:

1. Taxes and assessments for the year 2006 and subsequent years.
2. Easements or claims of easements not shown by the Public Records, boundary line disputes, overlaps, encroachments, and any matters not of record which would be disclosed by an accurate survey and inspection of the premises.
3. Terms, conditions, and provisions of Ground Lease, dated as of November 1, 2006, by and between South Florida Water Management District, an agency and water management district of the State of Florida, Lessor, and the South Florida Water Management District Leasing Corp., a not-for-profit Florida corporation, as Lessee, with Lessee's interest assigned to Deutsche Bank National Trust Company, Charlotte, North Carolina, as Trustee, pursuant to a Master Trust Agreement dated as of September 1, 2006, and as amended and supplemented by the Series 2006 Supplemental Trust Agreement dated as of September 1, 2006, recorded in the Public Records of Palm Beach, Martin and Hendry Counties, Florida.
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5. Final Judgment Validating Certificates of Participation Lease-Purchase Financing recorded in Official Records Book 19992, Page 239 and amended in Official Records Book 20258, Page 1731, both of the Public Records of Palm Beach County, Florida.
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7. Resolution of Everglades Drainage District for Right-of-Way in Deed Book 536, Page 422 and in Deed Book 536, Page 429.
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15. Reservations in favor of The Trustees of the Internal Improvement Fund of the State of Florida recorded in Deed Book 727, Page 13.
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Florida Statutes.

21. Reservations in favor of The Trustees of the Internal Improvement Fund of the State of Florida recorded in Deed Book 1054, Page 212.
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24. Perpetual Easement for Discharging Water recorded in Deed Book 1056, Page 577.
25. Reservations in favor of the Board of Education of the State of Florida recorded in Deed Book 1088, Page 700.
26. Reservations in favor of The Trustees of the Internal Improvement Fund of the State of Florida recorded in Deed Book 1054, Page 213 and corrected in Deed Book 1091, Page 695 and as affected by Release of Right of Entry only to a portion of Section 5 in Official Records Book 20325, Page 1172.
27. Perpetual Easement for Discharging Water recorded in Official Records Book 572, Page 727.
28. Road Easement Agreement as set out and reserved in Official Records Book 968, Page 588.
29. Unity of Title recorded in Official Records Book 2067, Page 306.
30. Terms, conditions and provisions of that certain Unrecorded Agricultural Lease with Hawthorne Sugar Corp., as evidence by and together with Memorandum of Agricultural Lease recorded in Official Records Book 4439, Page 1259, as affected by Lease Assignment to Columbia Bank For Cooperatives, recorded in Official Records Book 4439, Page 1266.
31. Reservations as contained in Warranty Deed recorded in Official Records Book 5915, Page 357.
32. All rights of access, egress, ingress, light, air and view between Sections 31, Township 46 South, Range 38 East, and Sections 36, 25, 24 and 23 Township 46 South, Range 37 East, as contained in Deed conveyed to the State of Florida recorded in Official Records Book 6870, Page 1080.
33. All rights of access, egress, ingress, light, air and view between Sections 4, 10, 14, 15, Township 46 South, Range 37 East, as contained in Deed conveyed to the State of Florida recorded in Official Records Book 6991, Page 814.
34. All rights of access, egress, ingress, light, air and view between Lots 4 and 5, Hiatus, between Townships 45 and 46 South, Range 37 East, as contained in Deed conveyed to the State of Florida recorded in Official Records Book 7575, Page 1038.
35. Rights of tenant(s) in possession, other than the record owner, including but not limited to possessory estate for years, together with all right, title and interest in the crops and cane stubble, and the right to use the irrigation and drainage systems, including, without limitation, the pumps, pump motors, pump houses and piping located on said property; all as more particularly described in the Reservation Conditions attached as Exhibit C contained in Warranty Deed from Okeelanta Corporation recorded in Official Records Book 11015, Page 1892.

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36. Terms, provisions, covenants, conditions, restrictions, assessments, easements, options, liens, notice of sale, and other matters established by Reservation Conditions attached as Exhibit C contained in Warranty Deeds recorded in Official Records Book 11015, Page 1892, and Mortgage from Okeelanta Corporation in favor of Columbia Bank For Cooperatives, dated January 8, 1985 and recorded in Official Records Book 4439, Page 4, together with the following related documents: a) Release and Mortgage Modification Agreement recorded in Official Records Book 5205, at Page 1372; Notices and Acknowledgments of Future Advance recorded in Official Records Book 5205, at Page 1482, and recorded in Official Records Book 6284, at Page 1061; Mortgage Modification and Spreader Agreement recorded in Official Records Book 7885, at Page 1089; Notice and Acknowledgment of Initial Advance recorded in Official Records Book 7885, at Page 1190; Mortgage Modification and Spreader Agreement recorded in Official Records Book 10246, Page 625 and re-recorded in Official Records Book 10412, Page 813; as affected by: a) Partial Releases recorded in Official Records Book 4912, at Page 986, Official Records Book 5023, at Page 1413, Official Records Book 5123, at Page 875, Official Records Book 6870, at Page 1083, Official Records Book 7537, at Page 240, Official Records Book 7537 at Page 381 and Partial Releases of Mortgage, Financing Statement and Assignments recorded in Official Records Book 10246, Page 629 Official Records Book 11015, Page 1715; and also partial termination of the following: a) UCC Financing Statement recorded in Official Records Book 4439, Page 89, b) Amended in Official Records Book 5205, Page 1429, c) Continued in Official Records Book 6268, Page 1482, d) Amended in Official Records Book 6996, Page 1570, e) UCC Financing Statement recorded in Official Records Book 9390, Page 244, f) Amended in Official Records Book 10246, Page 649.

37. Rights of tenant(s) in possession, other than the record owner, including but not limited to possessory estate for years, together with all right, title and interest in the crops and cane stubble, and the right to use the irrigation and drainage systems, including, without limitation, the pumps, pump motors, pump houses and piping located on said property; all as more particularly described in the Reservation Conditions attached as Exhibit C as contained in Warranty Deed from Talisman Sugar Corporation recorded in Official Records Book 11016, Page 546, as partially assigned to New Hope Sugar Company and United States Sugar Corporation by Assignment and Assumption of Reservation recorded in Official Records Book 11016, page 632 and with Amendment No. 1 with New Hope Sugar Company recorded in Official Records Book 11016, Page 686 and Amendment No. 1 with United States Sugar Corporation recorded in Official Records Book 11016, page 727.

38. Terms, provisions, covenants, conditions, restrictions, assessments, easements, options, liens, notice of sale, and other matters established by Reservation Conditions attached as Exhibit C all contained in Warranty Deed from Talisman Sugar Corporation, a Florida corporation recorded in Official Records Book 11016, Page 546, as partially assigned to New Hope Sugar Company and United States Sugar Corporation by Assignment and Assumption of Reservation recorded in

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Official Records Book 11016, page 632 and with Amendment No. 1 with New Hope Sugar Company recorded in Official Records Book 11016, Page 686 and Amendment No. 1 with United States Sugar Corporation recorded in Official Records Book 11016, Page 727.

39. Purchase and Sale Agreement by and between Talisman Sugar Corporation and The Nature Conservancy dated July 2, 1998, as amended November 30, 1998 and as evidence by and together with that certain Memorandum of Agreement recorded in Official Records Book 11052, Page 659.
40. Sugarcane Processing and Marketing Agreement, Security Agreement and Financing Statement by and between Osceola Farms, Co., a Florida corporation and Trucane Sugar Corporation recorded in Official Records Book 11275, Page 1747.
41. License Agreement by and between Osceola Farms, Co., a Florida corporation and Trucane Sugar Corporation, a Florida corporation recorded in Official Records Book 11292, Page 90.
42. UCC Financing Statement from Trucane Sugar Corporation to Farm Credit of South Florida recorded in Official Records Book 11297, Page 994.
43. Declaration of Restrictive Covenant with the Florida Department of Environmental Protection recorded in Official Records Book 20479, Page 216.
44. Declaration of Restrictive Covenant with the Florida Department of Environmental Protection recorded in Official Records Book 20532, Page 460.
45. Restrictive Covenants contained in Deed from The Trustees of the Internal Improvement Fund of the State of Florida recorded in Official Records Book 20534, Page 1167.

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This instrument was prepared by:

Kenneth R. Artin, Esq.
Bryant Miller Olive P.A.
135 W. Central Boulevard, Suite 700
Orlando, Florida 32801

SECOND SUPPLEMENT TO

SERIES 2006
GROUND LEASE

Dated as of _____ ___, 2013

BETWEEN

THE GOVERNING BOARD OF THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT
acting as the governing body of
the South Florida Water Management District,
as Lessor

AND

SOUTH FLORIDA WATER MANAGEMENT DISTRICT LEASING CORP.
as Lessee

(Series 2006 Facility Site)

{25280/004/00505146.DOCv1}

Attachment: Second Supplement to 2006 Ground Lease (00505146) (Resolution No. 2013 - 0609 : Second Supplement to Series 2006 Ground

SECOND SUPPLEMENT TO SERIES 2006 GROUND LEASE

This Second Supplement To Series 2006 Ground Lease ("Subject Supplement") is made and entered into as of _____ ___, 2013 by the Governing Board of the South Florida Water Management District (the "Governing Board"), acting as the governing body of the South Florida Water Management District (the "District"), an agency of the State of Florida and a water management district, which is organized, exists and operates pursuant to the Florida Water Resources Act of 1972, Chapter 373, Florida Statutes, as amended, as Lessor, and South Florida Water Management District Leasing Corp., a not-for-profit corporation organized and existing under and pursuant to Chapter 617, Florida Statutes, as amended, as Lessee (the "Corporation"). All terms capitalized but not defined herein shall have the meanings given to them in the Ground Lease (defined herein).

W I T N E S S E T H:

WHEREAS, the Governing Board and the Corporation entered into a certain Series 2006 Ground Lease (the "Original Ground Lease") a copy of which was recorded in Official Records Book 21098 at Page 0638 of the Public Records of Palm Beach County, Florida, Official Record Book 752 at Page 1749 of the Public Records of Hendry County and Official Record Book 2199 at Page 314 of the Public Records of Martin County; and

WHEREAS, the Governing Board and the Corporation entered into a First Supplement to Series 2006 Ground Lease dated as of February 12, 2009 (the "First Supplement" and, together with the Original Ground Lease, the "Ground Lease") a copy of which was recorded in Official Records Book 23252, Page 686 of the Public Records of Palm Beach County, Florida and Official Record Book 802, Page 1976 of the Public Records of Hendry County, Florida; and

WHEREAS, due to adjustments in the timing of construction of the Everglades Agricultural Area ("EAA") Reservoir and the construction of the build-out for Stormwater Treatment Area ("STA") Compartments B and C, the First Supplement was executed and recorded in order to subject to the terms of the Ground Lease the lands upon which the STA Compartments B and C were to be located, and to release from the terms of the Ground Lease the lands upon which the EAA Reservoir was to be constructed; and

WHEREAS, the Governing Board continues to own the real property upon which the EAA Reservoir was to be located (the "Subject Parcel"); and

WHEREAS, it is further contemplated that the District will complete the construction of the A-1 Flow Equalization Basin (the "A-1 FEB") on the Subject Parcel; and

WHEREAS, pursuant to the Second Amendment to Schedule 2006, the Corporation and the Governing Board have amended Schedule 2006 by adding the A-1 FEB as a Series 2006 Facility, modifying the Series 2006 Project budget and adding the Subject Parcel as a Series 2006 Facility Site; and

WHEREAS, d the Governing Board and the Corporation have entered into this Second Supplement in order to subject the Subject Parcel to the terms of the Ground Lease; and

WHEREAS, the Subject Parcel is a portion of the Series 2006 Project and, as such, is to be subject to the Ground Lease as contemplated thereby.

NOW, THEREFORE, in consideration of the premises and for Ten Dollars ($10.00) and other good and valuable consideration, the receipt and sufficiency whereof is hereby acknowledged by each party hereto by the other party hereto, the parties hereto do hereby acknowledge and agree as follows:

(1) The foregoing recitations are true and correct and are incorporated herein by reference.

(2) The Subject Parcel is hereby declared to be a Series 2006 Facility Site (as defined in the Ground Lease) which constitutes a portion of the Series 2006 Project and, therefore, is a part of the leasehold estate, with the operation and effect of the Ground Lease applying to the Subject Parcel as fully and to the same extent as if the Subject Parcel were described in the Ground Lease and therein set forth to be a Series 2006 Facility Site.

[Remainder of page intentionally left blank]

Attachment: Second Supplement to 2006 Ground Lease (00505146) (Resolution No. 2013 - 0609 : Second Supplement to Series 2006 Ground

(3) The Ground Lease, as modified hereby, remains in full force and effect in accordance with the terms and provisions thereof.

IN WITNESS WHEREOF, each of the parties hereto have caused this Second Supplement to be executed by their duly authorized officers or agents, all as of the day and year first above written.

THE GOVERNING BOARD OF THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT

ATTEST:

_____ By: _____

Its: Secretary Its: Chairman

(SEAL)

STATE OF FLORIDA

COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this _____ day of _____, 2013, by _____ and _____, as _____ and as _____, respectively, of the SOUTH FLORIDA WATER MANAGEMENT DISTRICT. They are personally known to me or have produced _____ as identification and have not taken an oath.

NOTARY PUBLIC:

Sign: _____

Print: _____

(SEAL) My Commission Expires:

Title/Rank: _____

Commission Number: _____

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SOUTH FLORIDA WATER MANAGEMENT DISTRICT LEASING CORP.

ATTEST:

_____ By: _____

Its: Its:

(SEAL)

STATE OF FLORIDA

COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this _____ day of _____, 2013, by _____ and _____, as _____ and as _____, respectively, of the SOUTH FLORIDA WATER MANAGEMENT DISTRICT LEASING CORP. They are personally known to me or have produced _____ as identification and have not taken an oath.

NOTARY PUBLIC:

Sign: _____

Print: _____

(SEAL) My Commission Expires:

Title/Rank: _____

Commission Number: _____

{25280/004/00505146.DOCv1}

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SIMULTANEOUS ASSIGNMENT

All of the rights of the South Florida Water Management District Leasing Corp. hereunder are hereby assigned without recourse or warranty to Deutsche Bank National Trust Company, as Trustee, as successor in interest to and assignee of South Florida Water Management District Leasing Corp. under the Assignment.

SOUTH FLORIDA WATER MANAGEMENT DISTRICT LEASING CORP.

(SEAL)

By: _____
Name:
Title:

Dated: _____, 2013

STATE OF FLORIDA

COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this _____ day of _____, 2013, by _____, as _____, of the SOUTH FLORIDA WATER MANAGEMENT DISTRICT LEASING CORP, a not-for-profit Florida corporation. He is personally known to me or has produced _____ as identification and has not taken an oath.

NOTARY PUBLIC:

Sign: _____
Print: _____
(SEAL) My Commission Expires:
Title/Rank: _____
Commission Number: _____

{25280/004/00505146.DOCv1}

EXHIBIT A

A. DESCRIPTION OF (EVERGLADES AGRICULTURAL AREA (EAA) RESERVOIR – PHASE 1A – THE EAA RESERVOIR:

A parcel of land lying in Sections 5-9, 16, 17, 20-22, 26-29, a portion of Sections 3, 4, 10, 14, 15, 18, 19, 23-25, 30-36, Township 46 South, Range 37 East Hiatus Lots 4-6 lying between Townships 45 and 46 South, Range 37 East, and a portion of Section 31, Township 46 South, Range 38 East, Palm Beach County, Florida, and being more particularly described as follows:

Commence at the Northwest corner of said Hiatus Lot 6, lying between Townships 45 and 46 South, Range 37 East;

thence South 00° 05' 09" West along the West line of said Hiatus Lot 6, a distance of 8,008.10 feet to the POINT OF BEGINNING;

thence North 89° 33' 55" East, along a line 1,100 feet North of and parallel with the North line of Sections 4, 5 and 6 a distance of 12,054.52 feet, to the Westerly Right-of-Way of State Road 25 (U.S. Highway 27);

thence Southeasterly along said Westerly Right-of-Way line for the following five (5) courses;

thence South 35° 04' 58" East, a distance of 6,669.82 feet;

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thence South 35° 04' 50" East, a distance of 7,793.22 feet;

thence South 35° 09' 26" East, a distance of 10,182.40 feet;

thence South 35° 00' 29" East, for 7,270.95 feet to a point on a line 1,815 feet North of and parallel with the South Township line of said Township 46 South, Range 37 East;

thence departing aforesaid Westerly Right-of-Way line South 89° 35' 10" West along a line 1,815.00 feet North of and parallel with the South line of said Township 46 South, Range 37 East, a distance of 32,712.70 feet, to a point on a line 380 feet East of and parallel with the West line of said Township 46 South, Range 37 East;

thence Northerly along a line 380.00 feet East of and parallel with said West line for the following two (2) courses;

thence North 01° 08' 34" West, a distance of 14,005.03 feet;

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31. Reservations as contained in Warranty Deed recorded in Official Records Book 5915, Page 357.
32. All rights of access, egress, ingress, light, air and view between Sections 31, Township 46 South, Range 38 East, and Sections 36, 25, 24 and 23 Township 46 South, Range 37 East, as contained in Deed conveyed to the State of Florida recorded in Official Records Book 6870, Page 1080.
33. All rights of access, egress, ingress, light, air and view between Sections 4, 10, 14, 15, Township 46 South, Range 37 East, as contained in Deed conveyed to the State of Florida recorded in Official Records Book 6991, Page 814.
34. All rights of access, egress, ingress, light, air and view between Lots 4 and 5, Hiatus, between Townships 45 and 46 South, Range 37 East, as contained in Deed conveyed to the State of Florida recorded in Official Records Book 7575, Page 1038.
35. Rights of tenant(s) in possession, other than the record owner, including but not limited to possessory estate for years, together with all right, title and interest in the crops and cane stubble, and the right to use the irrigation and drainage systems, including, without limitation, the pumps, pump motors, pump houses and piping located on said property; all as more particularly described in the Reservation Conditions attached as Exhibit C contained in Warranty Deed from Okeelanta Corporation recorded in Official Records Book 11015, Page 1892.
36. Terms, provisions, covenants, conditions, restrictions, assessments, easements, options, liens, notice of sale, and other matters established by Reservation Conditions attached as Exhibit C contained in Warranty Deeds recorded in Official Records Book 11015, Page 1892, and Mortgage from Okeelanta Corporation in favor of Columbia Bank For Cooperatives, dated January 8, 1985 and recorded in Official

Attachment: Second Supplement to 2006 Ground Lease (00505146) (Resolution No. 2013 - 0609 : Second Supplement to Series 2006 Ground

Records Book 4439, Page 4, together with the following related documents: a) Release and Mortgage Modification Agreement recorded in Official Records Book 5205, at Page 1372; Notices and Acknowledgments of Future Advance recorded in Official Records Book 5205, at Page 1482, and recorded in Official Records Book 6284, at Page 1061; Mortgage Modification and Spreader Agreement recorded in Official Records Book 7885, at Page 1089; Notice and Acknowledgment of Initial Advance recorded in Official Records Book 7885, at Page 1190; Mortgage Modification and Spreader Agreement recorded in Official Records Book 10246, Page 625 and re-recorded in Official Records Book 10412, Page 813; as affected by: a) Partial Releases recorded in Official Records Book 4912, at Page 986, Official Records Book 5023, at Page 1413, Official Records Book 5123, at Page 875, Official Records Book 6870, at Page 1083, Official Records Book 7537, at Page 240, Official Records Book 7537 at Page 381 and Partial Releases of Mortgage, Financing Statement and Assignments recorded in Official Records Book 10246, Page 629 Official Records Book 11015, Page 1715; and also partial termination of the following: a) UCC Financing Statement recorded in Official Records Book 4439, Page 89, b) Amended in Official Records Book 5205, Page 1429, c) Continued in Official Records Book 6268, Page 1482, d) Amended in Official Records Book 6996, Page 1570, e) UCC Financing Statement recorded in Official Records Book 9390, Page 244, f) Amended in Official Records Book 10246, Page 649.

37. Rights of tenant(s) in possession, other than the record owner, including but not limited to possessory estate for years, together with all right, title and interest in the crops and cane stubble, and the right to use the irrigation and drainage systems, including, without limitation, the pumps, pump motors, pump houses and piping located on said property; all as more particularly described in the Reservation Conditions attached as Exhibit C as contained in Warranty Deed from Talisman Sugar Corporation recorded in Official Records Book 11016, Page 546, as partially assigned to New Hope Sugar Company and United States Sugar Corporation by Assignment and Assumption of Reservation recorded in Official Records Book 11016, page 632 and with Amendment No. 1 with New Hope Sugar Company recorded in Official Records Book 11016, Page 686 and Amendment No. 1 with United States Sugar Corporation recorded in Official Records Book 11016, page 727.

38. Terms, provisions, covenants, conditions, restrictions, assessments, easements, options, liens, notice of sale, and other matters established by Reservation Conditions attached as Exhibit C all contained in Warranty Deed from Talisman Sugar Corporation, a Florida corporation recorded in Official Records Book 11016, Page 546, as partially assigned to New Hope Sugar Company and United States Sugar Corporation by Assignment and Assumption of Reservation recorded in Official Records Book 11016, page 632 and with Amendment No. 1 with New Hope Sugar Company recorded in Official Records Book 11016, Page 686 and Amendment No. 1 with United States Sugar Corporation recorded in Official Records Book 11016, Page 727.

39. Purchase and Sale Agreement by and between Talisman Sugar Corporation and The

Attachment: Second Supplement to 2006 Ground Lease (00505146) (Resolution No. 2013 - 0609 : Second Supplement to Series 2006 Ground

Nature Conservancy dated July 2, 1998, as amended November 30, 1998 and as evidence by and together with that certain Memorandum of Agreement recorded in Official Records Book 11052, Page 659.

40. Sugarcane Processing and Marketing Agreement, Security Agreement and Financing Statement by and between Osceola Farms, Co., a Florida corporation and Trucane Sugar Corporation recorded in Official Records Book 11275, Page 1747.
41. License Agreement by and between Osceola Farms, Co., a Florida corporation and Trucane Sugar Corporation, a Florida corporation recorded in Official Records Book 11292, Page 90.
42. UCC Financing Statement from Trucane Sugar Corporation to Farm Credit of South Florida recorded in Official Records Book 11297, Page 994.
43. Declaration of Restrictive Covenant with the Florida Department of Environmental Protection recorded in Official Records Book 20479, Page 216.
44. Declaration of Restrictive Covenant with the Florida Department of Environmental Protection recorded in Official Records Book 20532, Page 460.
45. Restrictive Covenants contained in Deed from The Trustees of the Internal Improvement Fund of the State of Florida recorded in Official Records Book 20534, Page 1167.

Attachment: Second Supplement to 2006 Ground Lease (00505146) (Resolution No. 2013 - 0609 : Second Supplement to Series 2006 Ground

M E M O R A N D U M

TO: Governing Board Members

FROM: Carolyn S. Ansay, General Counsel

DATE: June 13, 2013

SUBJECT: 2013 Regulatory Plan

Agenda Item Description
A Resolution of the Governing Board of the South Florida Water Management District approving the July 1, 2013 Regulatory Plan attached hereto as Appendix A, and authorizing staff to submit the July 1, 2013 Regulatory Plan to the Office of Fiscal Accountability and Regulatory Reform, in accordance with Executive Order 11-211, and to the Speaker of the House, President of the Senate, and Joint Administrative Procedures Committee, in accordance with Section 120.74,(3), F.S., effective immediately.

Background
The Governor's Executive Order 11-211 requires each agency under the direction of the Governor to submit to the Office of Fiscal Accountability and Regulatory Reform (OFARR) by July 1 of each year, an annual regulatory plan that identifies and describes each rule the agency expects to begin promulgating during the next twelve-month period. OFARR has provided all agencies with a detailed form that, when completed, constitutes the agency's regulatory plan. Section 120.74(3), Florida Statutes, requires each agency to file their regulatory plan with the President of the Senate, the Speaker of the House of Representatives, and the Joint Administrative Procedures Committee on or before July 1 of each year, beginning in 2011.

The Regulatory Plan consists of the following anticipated rulemaking efforts:

1. "Glitch" rule from the Statewide Environmental Resource Permitting (SWERP) - correct any rules necessary from the current SWERP rulemaking
2. "Glitch" rule from the Consumptive Use Permitting Consistency (CUPCon) - correct any rules necessary from the current CUPCon rulemaking
3. General and Procedural rules - update "mailing" and "posting" procedures
4. Right of Way Permit fee rule - revise fees to reflect agency's costs associated with evaluating, processing and mailing applications
5. Environmental Resource Permitting fee rule - revise fees based on Consumer Price Index as mandated by Subsection 373.109(2), F.S.
6. Works of the District Basins - update existing nutrient source control requirements under the Northern Everglades and Estuaries Protection Plan and the resultant Lake Okeechobee, Caloosahatchee River, and St. Lucie River Watershed Protection Plans
7. Everglades Program - update existing nutrient source control requirements under the Everglades Forever Act, the Northern Everglades and Estuaries Protection Plan, and the resultant Lake Okeechobee Watershed Protection Plan
8. Water Reservation associated with the Comprehensive Everglades Plan C-43 Reservoir project for the Caloosahatchee Estuary

9. Applicant's Handbook for Consumptive Use Permits - reclaimed water supplementation; clarifying/streamlining; and conforming to statutory changes (potentially in separate rulemaking processes)

A Resolution approving the July 1, 2013 Regulatory Plan is also attached for Board consideration. Going forward, each proposed rule will be submitted, in detail, to the Governing Board in accordance with the District's routine process and statutory requirements.

Core Mission and Strategic Priorities
The July 1, 2013 Regulatory Plan helps the District's 10-Year Strategic Plan by providing a detailed list of topics and anticipated effect of rule development efforts. Additionally, the July 1, 2013 Regulatory Plan complies with statutory and Executive Order requirements. Rulemaking will be conducted by District staff from Environmental Resource Permitting, Consumptive Use Permitting, Everglades Regulation, and Right of Way, in coordination with Office of Counsel.

Funding Source
Staff time will be used to implement the July 1, 2013 Regulatory Plan. Ad valorem funds may be used to prepare the economic impact analysis that may be required for certain rules.

Staff Recommendation
Approve the July 1, 2013 Regulatory Plan attached hereto as Appendix A, and authorize staff to submit the July 1, 2013 Regulatory Plan to the Office of Fiscal Accountability and Regulatory Reform, in accordance with Executive Order 11-211, and to the Speaker of the House, President of the Senate, and Joint Administrative Procedures Committee, in accordance with Section 120.74,(3), F.S., effective immediately.

If you have any questions, please call Doug MacLaughlin, Practice Leader, Office of Counsel at ext. 2153.

SOUTH FLORIDA WATER MANAGEMENT DISTRICT

(ID # 1300)

A Resolution of the Governing Board of the South Florida Water Management District approving the July 1, 2013 Regulatory Plan attached as Appendix A and authorizing staff to submit to the Office of Fiscal Accountability and Regulatory Reform, in accordance with Executive Order 11-211, and to the Speaker of the House, President of the Senate and Joint Administrative Procedures Committee, in accordance with Section 120.74(3), Florida Statutes, effective immediately. (OC, Carolyn Ansay, ext. 6976)

WHEREAS, the Governor's Executive Order 11-211 requires each agency under the direction of the Governor to submit to the Office of Fiscal Accountability and Regulatory Reform (OFARR) by July 1, 2011, and each successive year, an annual regulatory plan that identifies and describes each rule the agency expects to begin promulgating during the next twelve-month period;

WHEREAS, Section 120.74(3), Florida Statutes, requires each agency, beginning in 2012, and no later than July 1 of each year, to file with the President of the Senate, the Speaker of the House of Representatives, and the Joint Administrative Procedures Committee a regulatory plan identifying and describing each rule the agency proposes to adopt for the 12-month period beginning on the July 1 reporting date and ending on the subsequent June 30, excluding emergency rules;

WHEREAS, the Office of Fiscal Accountability and Regulatory Reform has provided a detailed form that, when completed, constitutes the agency's regulatory plan;

WHEREAS, the District's Annual Regulatory Plan consists of: 1) corrections/amendments to environmental resource permitting rules as a result of current Statewide Environmental Resource Permitting rules; 2) corrections/amendments to environmental resource permitting rules as a result of current Consumptive Use Permitting Consistency rules; 3) updates to general and procedural rules regarding mailing and posting; 4) revisions to right of way occupancy permit fees to reflect agency costs associated with evaluating, processing and mailing applications; 5) revisions to environmental resource permitting fees based on Consumer Price Index pursuant to subsection 373.109(2), F.S.; 6) amendments to Works of the District Basins to implement nutrient source control requirements under the Northern Everglades and Estuaries Protection Plan, and the resultant Lake Okeechobee, Caloosahatchee River, and St. Lucie River Watershed Protection Plans; 7) amendments to portions of the Everglades Program to implement nutrient source control

requirements under the Everglades Forever Act, and the resultant Lake Okeechobee Protection Plan; 8) amendments to water reservations and consumptive use permitting rules to establish a water reservation rule associated with the Comprehensive Everglades Plan C-43 Reservoir project for the Caloosahatchee Estuary; and 9) amendments to consumptive use permitting rules to develop new criteria for reclaimed water supplementation, to streamline/clarify existing language, and conform statutory changes.

Now Therefore,

BE IT RESOLVED BY THE GOVERNING BOARD OF THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT:

Section 1. The Governing Board of the South Florida Water Management District hereby approves the July 1, 2013 Regulatory Plan attached hereto as Appendix A.

Section 2. The Governing Board of the South Florida Water Management District authorizes District staff to submit the July 1, 2013 Regulatory Plan to the Office of Fiscal Accountability and Regulatory Reform, the Speaker of the House, the President of the Senate, and the Joint Administrative Procedures Committee.

Section 3. This resolution shall take effect immediately upon adoption.

PASSED and **ADOPTED** this 13th day of June, 2013.

SOUTH FLORIDA WATER MANAGEMENT DISTRICT, BY ITS GOVERNING BOARD
By:

_____
Chairman

Attest:

_____
District Clerk/Secretary

Legal form approved:
By:

_____
Office of Counsel

Print name:

_____

Appendix A - South Florida Water Management District
2013-2014 Annual Regulatory Plan

Rule Number	Rule Title	Rulemaking Action	Reason for Rulemaking	Additional Details on Reason for Rulemaking	Description of Current Rule or Statute to be Implemented	Description of Changes to be Made in Rulemaking	Economic Impact	Highly Technical or Complicated
40E-0.109	Point of Entry into Proceedings and Mediation	Rule Amendment	Other (Provide a detailed explanation)	To reduce regulatory burdens	Sets forth points of entry into proceedings in addition to those in Rule 28-106.111, F.A.C.	amend definition of "receipt of written notice"	None	No
40E-1.6058	Publication and Requests for Notification of Permit Applications or Notices of Intent	Rule Amendment	Other (Provide a detailed explanation)	To reduce regulatory burdens	Sets forth procedure for interested persons to request to be notified of permit applications and notices of intent. Also sets forth publication requirements	amend noticing and mailing requirements pursuant to current statutory requirements	None	No
40E-1.607	Permit Application Processing Fees	Rule Amendment	Statutory Mandate (federal or state) (Include effective date)	373.109(2), F.S. (7/1/2008)	Sets forth the permit application processing fees mandated by 373.109, F.S.	Statutorily required CPI increase (373.109(2), F.S.)	SERC	No
40E-1.715	Civil Penalty Calculation	Rule Amendment	Other (Provide a detailed explanation)	to address comments received from JAPC	Sets forth the two types of civil penalty calculations utilized by the SFWMD in enforcement actions	to enumerate criteria in the rule	SERC	No
40E-2.010	Review of Consumptive Use Permit Applications	Rule Amendment	Other (Provide a detailed explanation)	to potentially reduce regulatory burdens	Informs the public of the rules and statutes in which consumptive use permit applications are processed	"glitch rule" if necessary to correct once consumptive use permitting consistency rules are adopted	None	No
40E-2.011	Policy and Purpose	Rule Amendment	Other (Provide a detailed explanation)	to potentially reduce regulatory burdens	Sets forth the District's policies and procedures regarding water use and applicable statutes and rules	"glitch rule" if necessary to correct once consumptive use permitting consistency rules are adopted	None	No
40E-2.031	Implementation	Rule Amendment	Other (Provide a detailed explanation)	to potentially reduce regulatory burdens	Sets forth implementation of the District's consumptive use permitting program	"glitch rule" if necessary to correct once consumptive use permitting consistency rules are adopted	None	No
40E-2.041	Permits Required	Rule Amendment	Other (Provide a detailed explanation)	to potentially reduce regulatory burdens	Sets forth the types of consumptiive use permits issued by the District	"glitch rule" if necessary to correct once consumptive use permitting consistency rules are adopted	None	No
40E-2.051	Exemptions	Rule Amendment	Other (Provide a detailed explanation)	to potentially reduce regulatory burdens	Informs the public of types of water use that are exempt from permitting	"glitch rule" if necessary to correct once consumptive use permitting consistency rules are adopted	None	No

Appendix A - South Florida Water Management District
2013-2014 Annual Regulatory Plan

Rule Number	Rule Title	Rulemaking Action	Reason for Rulemaking	Additional Details on Reason for Rulemaking	Description of Current Rule or Statute to be Implemented	Description of Changes to be Made in Rulemaking	Economic Impact	Highly Technical or Complicated
40E-2.061	No-Notice General Permit by Rule	Rule Amendment	Other (Provide a detailed explanation)	to potentially reduce regulatory burdens	Grants a general water use permit by rule for specific water uses	"glitch rule" if necessary to correct once consumptive use permitting consistency rules are adopted	None	No
40E-2.091	Publications Incorporated by Reference	Rule Amendment	Other (Provide a detailed explanation)	1) establish criteria for Caloosahatchee Water Reservation; 2) add language re: reclaimed water supplementation; and 3) clarify/streamline language; 4) conform to statutory changes (potentially in separate rulemaking processes)	Incorporates the Basis of Review for Water Use Permit Applications within the South Florida Water Management District	1) update Basis of Review to establish criteria for Caloosahatchee Water Reservation; 2) add language regarding reclaimed water supplementation; 3) clarify/streamline criteria; and 4) conform to statutory changes (potentially in separate rulemaking processes)	SERC	Yes
40E-2.101	Content of Application	Rule Amendment	Other (Provide a detailed explanation)	to potentially reduce regulatory burdens	Sets forth the applications and contact information for submitting consumptive use permit applications	"glitch rule" if necessary to correct once consumptive use permitting consistency rules are adopted	None	No
40E-2.301	Conditions for Issuance of Permits	Rule Amendment	Other (Provide a detailed explanation)	to potentially reduce regulatory burdens	sets for the conditions an applicant must meet in order to obtain a consumptive use permit from the District	"glitch rule" if necessary to correct once consumptive use permitting consistency rules are adopted	None	No
40E-2.321	Duration of Permit	Rule Amendment	Other (Provide a detailed explanation)	to potentially reduce regulatory burdens	Sets forth the duration of consumptive use permit applications	"glitch rule" if necessary to correct once consumptive use permitting consistency rules are adopted	None	No
40E-2.331	Modification of Permits	Rule Amendment	Other (Provide a detailed explanation)	to potentially reduce regulatory burdens	Sets forth the District's policies and procedures to obtain a modification to consumptive use permits	streamline/clarify rule	None	No
40E-2.341	Revocation of Permits	Rule Amendment	Other (Provide a detailed explanation)	to potentially reduce regulatory burdens	Informs the public of violations which may result in revocation or suspension of consumptive use permits	"glitch rule" if necessary to correct once consumptive use permitting consistency rules are adopted	None	No

Appendix A - South Florida Water Management District
2013-2014 Annual Regulatory Plan

Rule Number	Rule Title	Rulemaking Action	Reason for Rulemaking	Additional Details on Reason for Rulemaking	Description of Current Rule or Statute to be Implemented	Description of Changes to be Made in Rulemaking	Economic Impact	Highly Technical or Complicated
40E-2.351	Transfer of Permits	Rule Amendment	Other (Provide a detailed explanation)	to potentially reduce regulatory burdens	Sets for the requirements in order to obtain a permit transfer	"glitch rule" if necessary to correct once consumptive use permitting consistency rules are adopted	None	No
40E-2.381	Limiting Conditions	Rule Amendment	Other (Provide a detailed explanation)	to potentially reduce regulatory burdens	Informs the public of conditions that may be imposed on a consumptive use permit	"glitch rule" if necessary to correct once consumptive use permitting consistency rules are adopted	None	No
40E-2.451	Emergency Authorization	Rule Amendment	Other (Provide a detailed explanation)	to potentially reduce regulatory burdens	Sets forth the procedure in which to seek permission to begin use, withdrawal or diversion of water prior to issuance of a consumptive use permit	"glitch rule" if necessary to correct once consumptive use permitting consistency rules are adopted	None	No
40E-2.501	Permit Classification	Rule Amendment	Other (Provide a detailed explanation)	to potentially reduce regulatory burdens	Informs the public that consumptive use permits are classified according to source, use and method of withdrawal	"glitch rule" if necessary to correct once consumptive use permitting consistency rules are adopted	None	No
40E-4.010	Review of Environmental Resource Permit Applications	Rule Amendment	Other (Provide a detailed explanation)	to potentially reduce regulatory burdens	Sets forth the statutes governing the processing of environmental resource permit applications.	"glitch rule" if necessary to correct once statewide environmental resource permitting rules are adopted	None	No
40E-4.031	Implementation	Rule Amendment	Other (Provide a detailed explanation)	to potentially reduce regulatory burdens	Sets forth the effective dates for the environmental resource permit program.	"glitch rule" if necessary to correct once statewide environmental resource permitting rules are adopted	None	No
40E-4.091	Publications, Rules and Interagency Agreements Incorporated by Reference	Rule Amendment	Other (Provide a detailed explanation)	to potentially reduce regulatory burdens	Incorporates publications, rules and interagency agreements relied upon by the District.	"glitch" rule if necessary to correct once statewide environmental resource permitting rules are adopted	None	No
40E-6.601	Permit Application Processing Fees	Rule Amendment	Other (Provide a detailed explanation)	revise Right of Way Occupancy Permit Application Processing Fees	Sets forth the application processing fee for connecting with and making use of the works and lands of the District	revise fees to reflect agency costs associated with evaluating, processing and mailing applications	SERC	No

Appendix A - South Florida Water Management District
2013-2014 Annual Regulatory Plan

Rule Number	Rule Title	Rulemaking Action	Reason for Rulemaking	Additional Details on Reason for Rulemaking	Description of Current Rule or Statute to be Implemented	Description of Changes to be Made in Rulemaking	Economic Impact	Highly Technical or Complicated
40E-10.011	Policy and Purpose	Rule Amendment	Statutory Mandate (federal or state) (Include effective date)	373.1501, F.S. (1999) and Water Resources Development Act of 2000 (Public Law 106–541—DEC. 11, 2000)	Sets forth the policy and purpose for water reservations within the SFWMD	Establish water reservation for the Caloosahatchee Estuary	SERC	Yes
40E-10.021	Definitions	Rule Amendment	Statutory Mandate (federal or state) (Include effective date)	373.1501, F.S. (1999) and Water Resources Development Act of 2000 (Public Law 106–541—DEC. 11, 2000)	Defines terms used throughout this chapter	Establish water reservation for the Caloosahatchee Estuary	SERC	Yes
40E-10.031	Water Reservations Implementation	Rule Amendment	Statutory Mandate (federal or state) (Include effective date)	373.1501, F.S. (1999) and Water Resources Development Act of 2000 (Public Law 106–541—DEC. 11, 2000)	Sets forth the requirements that must be met in order to receive a consumptive use permit in water reservation areas	Establish water reservation for the Caloosahatchee Estuary	SERC	Yes
40E-10.041	Water Reservation Areas: Lower West Coast Planning Area	Rule Amendment	Statutory Mandate (federal or state) (Include effective date)	373.1501, F.S. (1999) and Water Resources Development Act of 2000 (Public Law 106–541—DEC. 11, 2000)	Depicts water reservation areas within the Lower East Coast Planning Area	Establish water reservation for the Caloosahatchee Estuary	SERC	Yes
40E-41.023	Western Canal 9 Basin Boundary	Rule Amendment	Other (Provide a detailed explanation)	to potentially reduce regulatory burdens	Sets forth the boundary for the Western Canal 9 Basin	"glitch" rule if necessary to correct once statewide environmental resource permitting rules are adopted	None	No
40E-41.033	Implementation	Rule Amendment	Other (Provide a detailed explanation)	to potentially reduce regulatory burdens	Sets forth implementation of the rules in this chapter	"glitch" rule if necessary to correct once statewide environmental resource permitting rules are adopted	None	No
40E-41.043	Application of Part I	Rule Amendment	Other (Provide a detailed explanation)	to potentially reduce regulatory burdens	Sets forth the scope of Part I of this rule chapter	"glitch" rule if necessary to correct once statewide environmental resource permitting rules are adopted	None	No

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Rule Number	Rule Title	Rulemaking Action	Reason for Rulemaking	Additional Details on Reason for Rulemaking	Description of Current Rule or Statute to be Implemented	Description of Changes to be Made in Rulemaking	Economic Impact	Highly Technical or Complicated
40E-41.053	Exemptions	Rule Amendment	Other (Provide a detailed explanation)	to potentially reduce regulatory burdens	Sets forth exemptions from fill encroachment criteria	"glitch" rule if necessary to correct once statewide environmental resource permitting rules are adopted	None	No
40E-41.063	Conditions for Issuance of Permits in the Western Canal 9 Basin	Rule Amendment	Other (Provide a detailed explanation)	to potentially reduce regulatory burdens	Sets forth conditions that must be met in order to obtain a consumptive use permit within the Western Canal 9 Basin Boundary	"glitch" rule if necessary to correct once statewide environmental resource permitting rules are adopted	None	No
40E-41.091	Publications, Rules and Interagency Agreements Incorporated by Reference	Rule Amendment	Other (Provide a detailed explanation)	to potentially reduce regulatory burdens	Refers to Rule 40E-4.091, F.A.C., for all publications, rules and interagency agreements incorporated by reference	"glitch" rule if necessary to correct once statewide environmental resource permitting rules are adopted	None	No
40E-41.120	Scope of Part II	Rule Amendment	Other (Provide a detailed explanation)	to potentially reduce regulatory burdens	The rules in this part shall apply to projects within the Kissimmee River Basin	"glitch" rule if necessary to correct once statewide environmental resource permitting rules are adopted	None	No
40E-41.121	Definitions	Rule Amendment	Other (Provide a detailed explanation)	to potentially reduce regulatory burdens	Defines terms used throughout this part of this chapter	"glitch" rule if necessary to correct once statewide environmental resource permitting rules are adopted	None	No
40E-41.123	Kissimmee River Basin Boundary	Rule Amendment	Other (Provide a detailed explanation)	to potentially reduce regulatory burdens	Sets forth the boundary for the Kissimmee River Basin	"glitch" rule if necessary to correct once statewide environmental resource permitting rules are adopted	None	No
40E-41.133	Implementation	Rule Amendment		to potentially reduce regulatory burdens	Sets forth the implementation date for this part of this chapter	"glitch" rule if necessary to correct once statewide environmental resource permitting rules are adopted	None	No
40E-41.143	Application of Part II	Rule Amendment	Other (Provide a detailed explanation)	to potentially reduce regulatory burdens	Sets forth the scope of Part II of this chapter	"glitch" rule if necessary to correct once statewide environmental resource permitting rules are adopted	None	No

Attachment: Appendix A to 2013 Regulatory Plan REVISED 2013-05-31 (Resolution No. 2013 - 0610 : 2013

Appendix A - South Florida Water Management District
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Rule Number	Rule Title	Rulemaking Action	Reason for Rulemaking	Additional Details on Reason for Rulemaking	Description of Current Rule or Statute to be Implemented	Description of Changes to be Made in Rulemaking	Economic Impact	Highly Technical or Complicated
40E-41.160	Content of Application	Rule Amendment	Other (Provide a detailed explanation)	to potentially reduce regulatory burdens	sets forth procedure for applying for consumptive use permits within the Kissimmee River Basin	"glitch" rule if necessary to correct once statewide environmental resource permitting rules are adopted	None	No
40E-41.163	Conditions for Issuance of Surface Water Management Permits in the Kissimmee River Basin	Rule Amendment	Other (Provide a detailed explanation)	to potentially reduce regulatory burdens	Sets forth conditions that must be met in order to obtain a consumptive use permit within the Kissimmee River Basin	"glitch" rule if necessary to correct once statewide environmental resource permitting rules are adopted	None	No
40E-41.165	Conditions for Issuance of Right of Way Permits in the Kissimmee River Basin	Rule Amendment	Other (Provide a detailed explanation)	to potentially reduce regulatory burdens	sets forth conditions that must be met in order to obtain a right of way permit in the Kissimmee River Basin	"glitch" rule if necessary to correct once statewide environmental resource permitting rules are adopted	None	No
40E-41.220	Scope and Policy of Part III	Rule Amendment	Other (Provide a detailed explanation)	to potentially reduce regulatory burdens	sets forth the scope of Part II+F146I of this chapter	"glitch" rule if necessary to correct once statewide environmental resource permitting rules are adopted	None	No
40E-41.221	Definitions	Rule Amendment	Other (Provide a detailed explanation)	to potentially reduce regulatory burdens	Defines the terms used in Part III of this chapter	"glitch" rule if necessary to correct once statewide environmental resource permitting rules are adopted	None	No
40E-41.223	C-51 Basin Boundary	Rule Amendment	Other (Provide a detailed explanation)	to potentially reduce regulatory burdens	Sets for the boundary for the C-51 Basin	"glitch" rule if necessary to correct once statewide environmental resource permitting rules are adopted	None	No
40E-41.233	Implementation	Rule Amendment	Other (Provide a detailed explanation)	to potentially reduce regulatory burdens	Sets forth the implementation for Part III of this chapter	"glitch" rule if necessary to correct once statewide environmental resource permitting rules are adopted	None	No
40E-41.243	Application of Part III	Rule Amendment	Other (Provide a detailed explanation)	to potentially reduce regulatory burdens	Sets forth the applicable rules for projects located within the C-51 Basin	"glitch" rule if necessary to correct once statewide environmental resource permitting rules are adopted	None	No
40E-41.260	Content of Application	Rule Amendment	Other (Provide a detailed explanation)	to potentially reduce regulatory burdens	sets forth the application procedures for projects located within the C-51 Basin	"glitch" rule if necessary to correct once statewide environmental resource permitting rules are adopted	None	No

Appendix A - South Florida Water Management District
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Rule Number	Rule Title	Rulemaking Action	Reason for Rulemaking	Additional Details on Reason for Rulemaking	Description of Current Rule or Statute to be Implemented	Description of Changes to be Made in Rulemaking	Economic Impact	Highly Technical or Complicated
40E-41.263	Conditions for Issuance of Permits in the C-51 Basin	Rule Amendment	Other (Provide a detailed explanation)	to potentially reduce regulatory burdens	Sets forth conditions that must be met in order to obtain an environmental permit within the C-51 Basin	"glitch" rule if necessary to correct once statewide environmental resource permitting rules are adopted	None	No
40E-41.265	Conditions for Issuance of Right-of-Way Permits in the C-51 Basin	Rule Amendment	Other (Provide a detailed explanation)	to potentially reduce regulatory burdens	Sets forth conditions that must be met in order to obtain a right of way occupancy permit within the C-51 Basin	"glitch" rule if necessary to correct once statewide environmental resource permitting rules are adopted	None	No
40E-41.320	Scope, Policy, and Implementation of Part IV	Rule Amendment	Other (Provide a detailed explanation)	to potentially reduce regulatory burdens	Sets forth the scope, policy and implementation of Part IV of this chapter	"glitch" rule if necessary to correct once statewide environmental resource permitting rules are adopted	None	No
40E-41.321	Definitions	Rule Amendment	Other (Provide a detailed explanation)	to potentially reduce regulatory burdens	Defines the terms used in Part IV of this chapter	"glitch" rule if necessary to correct once statewide environmental resource permitting rules are adopted	None	No
40E-41.323	Water Preserve Area & Water Preserve Area Basin Boundaries	Rule Amendment	Other (Provide a detailed explanation)	to potentially reduce regulatory burdens	Sets forth the boundaries for the Water Preserve Area and Water Preserve Area Basin	"glitch" rule if necessary to correct once statewide environmental resource permitting rules are adopted	None	No
40E-41.333	Implementation	Rule Amendment	Other (Provide a detailed explanation)	to potentially reduce regulatory burdens	Sets forth implementation of Part IV of this chapter	"glitch" rule if necessary to correct once statewide environmental resource permitting rules are adopted	None	No
40E-41.343	Application of Part IV	Rule Amendment	Other (Provide a detailed explanation)	to potentially reduce regulatory burdens	Sets forth the applicable rules for projects located within the Water Preserve Area, Water Preserve Area Basin, or adjacent to the Protective Levees	"glitch" rule if necessary to correct once statewide environmental resource permitting rules are adopted	None	No
40E-41.360	Permit Thresholds	Rule Amendment	Other (Provide a detailed explanation)	to potentially reduce regulatory burdens	Sets forth the threshold for systems proposed within the boundaries of the Water Preserve Area	"glitch" rule if necessary to correct once statewide environmental resource permitting rules are adopted	None	No

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Rule Number	Rule Title	Rulemaking Action	Reason for Rulemaking	Additional Details on Reason for Rulemaking	Description of Current Rule or Statute to be Implemented	Description of Changes to be Made in Rulemaking	Economic Impact	Highly Technical or Complicated
40E-41.363	Conditions for Issuance of Permits in the Water Preserve Area, Water Preserve Area Basin, or Adjacent to the	Rule Amendment	Other (Provide a detailed explanation)	to potentially reduce regulatory burdens	Sets forth the conditions that must be met n order to obtain and environmental resource or surface water management permit in the Water Preserve Area, Water Preserve Area basin, or Adjacent to the Protective Levees	"glitch" rule if necessary to correct once statewide environmental resource permitting rules are adopted	None	No
40E-61.011	Policy and Purpose	Rule Amendment	Statutory Mandate (federal or state) (Include effective date)	373.4595, F.S. (2007)	Explains the policy and purpose of specified basins within the SFWMD which are integral to operation, maintenance and protections of the SFWMD's water resources	This chapter is being amended to update the existing nutrient source control requirements under the Northern Everglades and Estuaries Protection Plan (NEEPP) and the resultant Lake Okeechobee, Caloosahatchee River, and St. Lucie River Watershed Protection Plans. The source control requirement is a critical element for successfully achieving the overall water quality restoration goals.	SERC	Yes

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Rule Number	Rule Title	Rulemaking Action	Reason for Rulemaking	Additional Details on Reason for Rulemaking	Description of Current Rule or Statute to be Implemented	Description of Changes to be Made in Rulemaking	Economic Impact	Highly Technical or Complicated
40E-61.020	Scope of Part I	Rule Amendment	Statutory Mandate (federal or state) (Include effective date)	373.4595, F.S. (2007)	Sets forth the scope of this part of this chapter regarding the Okeechobee Drainage Basin and othe rtriutary sub-basins. The SFWMD is responsible for implementing the Surface Water Improvement and Management (SWIM) Plan for Lake Okeechobee and othe rpriority water bodies that are hydrologically interconnected to Lake Okeechobee.	This chapter is being amended to update the existing nutrient source control requirements under the Northern Everglades and Estuaries Protection Plan (NEEPP) and the resultant Lake Okeechobee, Caloosahatchee River, and St. Lucie River Watershed Protection Plans. The source control requirement is a critical element for successfully achieving the overall water quality restoration goals.	SERC	Yes
40E-61.021	Definitions	Rule Amendment	Statutory Mandate (federal or state) (Include effective date)	373.4595, F.S. (2007)	Defines the terms used throughout this chapter	This chapter is being amended to update the existing nutrient source control requirements under the Northern Everglades and Estuaries Protection Plan (NEEPP) and the resultant Lake Okeechobee, Caloosahatchee River, and St. Lucie River Watershed Protection Plans. The source control requirement is a critical element for successfully achieving the overall water quality restoration goals.	SERC	Yes

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Rule Number	Rule Title	Rulemaking Action	Reason for Rulemaking	Additional Details on Reason for Rulemaking	Description of Current Rule or Statute to be Implemented	Description of Changes to be Made in Rulemaking	Economic Impact	Highly Technical or Complicated
40E-61.023	Basin and Sub-Basin Boundaries	Rule Amendment	Statutory Mandate (federal or state) (Include effective date)	373.4595, F.S. (2007)	Sets forth the boundaries for the Lake Okeechobee Basin and sub-basins	This chapter is being amended to update the existing nutrient source control requirements under the Northern Everglades and Estuaries Protection Plan (NEEPP) and the resultant Lake Okeechobee, Caloosahatchee River, and St. Lucie River Watershed Protection Plans. The source control requirement is a critical element for successfully achieving the overall water quality restoration goals.	SERC	Yes
40E-61.024	Works of the District within the Lake Okeechobee Basin	Rule Repeal	Statutory Mandate (federal or state) (Include effective date)	373.4595, F.S. (2007)	Lists Works of the District within the Lake Okeechobee Drainage Basin	This chapter is being amended to update the existing nutrient source control requirements under the Northern Everglades and Estuaries Protection Plan (NEEPP) and the resultant Lake Okeechobee, Caloosahatchee River, and St. Lucie River Watershed Protection Plans. The source control requirement is a critical element for successfully achieving the overall water quality restoration goals.	SERC	Yes

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Rule Number	Rule Title	Rulemaking Action	Reason for Rulemaking	Additional Details on Reason for Rulemaking	Description of Current Rule or Statute to be Implemented	Description of Changes to be Made in Rulemaking	Economic Impact	Highly Technical or Complicated
40E-61.031	Implementation	Rule Amendment	Statutory Mandate (federal or state) (Include effective date)	373.4595, F.S. (2007)	Sets forth the effective date of this rule chapter	This chapter is being amended to update the existing nutrient source control requirements under the Northern Everglades and Estuaries Protection Plan (NEEPP) and the resultant Lake Okeechobee, Caloosahatchee River, and St. Lucie River Watershed Protection Plans. The source control requirement is a critical element for successfully achieving the overall water quality restoration goals.	SERC	Yes
40E-61.041	Permits Required	Rule Amendment	Statutory Mandate (federal or state) (Include effective date)	373.4595, F.S. (2007)	Specifies the parcels of land that connect with or make use of the Works of the District within the Lake Okeechobee Drainage Basin and sub-basins that require individual permits	This chapter is being amended to update the existing nutrient source control requirements under the Northern Everglades and Estuaries Protection Plan (NEEPP) and the resultant Lake Okeechobee, Caloosahatchee River, and St. Lucie River Watershed Protection Plans. The source control requirement is a critical element for successfully achieving the overall water quality restoration goals.	SERC	Yes

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Rule Number	Rule Title	Rulemaking Action	Reason for Rulemaking	Additional Details on Reason for Rulemaking	Description of Current Rule or Statute to be Implemented	Description of Changes to be Made in Rulemaking	Economic Impact	Highly Technical or Complicated
40E-61.042	General Permits for Use of Works of the District within the Lake Okeechobee Basin	Rule Amendment	Statutory Mandate (federal or state) (Include effective date)	373.4595, F.S. (2007)	Provides a general permit with conditions for specific parcels of land	This chapter is being amended to update the existing nutrient source control requirements under the Northern Everglades and Estuaries Protection Plan (NEEPP) and the resultant Lake Okeechobee, Caloosahatchee River, and St. Lucie River Watershed Protection Plans. The source control requirement is a critical element for successfully achieving the overall water quality restoration goals.	SERC	Yes
40E-61.051	Exemptions	Rule Amendment	Statutory Mandate (federal or state) (Include effective date)	373.4595, F.S. (2007)	Sets forth activities which are exempt from permitting under this rule chapter	This chapter is being amended to update the existing nutrient source control requirements under the Northern Everglades and Estuaries Protection Plan (NEEPP) and the resultant Lake Okeechobee, Caloosahatchee River, and St. Lucie River Watershed Protection Plans. The source control requirement is a critical element for successfully achieving the overall water quality restoration goals.	SERC	Yes

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Rule Number	Rule Title	Rulemaking Action	Reason for Rulemaking	Additional Details on Reason for Rulemaking	Description of Current Rule or Statute to be Implemented	Description of Changes to be Made in Rulemaking	Economic Impact	Highly Technical or Complicated
40E-61.101	Content of Applications for Individual and Collective Permits	Rule Amendment	Statutory Mandate (federal or state) (Include effective date)	373.4595, F.S. (2007)	Sets forth the requirements for applications for individual permits required by this chapter	This chapter is being amended to update the existing nutrient source control requirements under the Northern Everglades and Estuaries Protection Plan (NEEPP) and the resultant Lake Okeechobee, Caloosahatchee River, and St. Lucie River Watershed Protection Plans. The source control requirement is a critical element for successfully achieving the overall water quality restoration goals.	SERC	Yes
40E-61.201	Permit Application Processing Fee	Rule Amendment	Statutory Mandate (federal or state) (Include effective date)	373.4595, F.S. (2007)	Sets forth the non-refundable permit application processing fee for permit applications filed under this chapter	This chapter is being amended to update the existing nutrient source control requirements under the Northern Everglades and Estuaries Protection Plan (NEEPP) and the resultant Lake Okeechobee, Caloosahatchee River, and St. Lucie River Watershed Protection Plans. The source control requirement is a critical element for successfully achieving the overall water quality restoration goals.	SERC	Yes

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Rule Number	Rule Title	Rulemaking Action	Reason for Rulemaking	Additional Details on Reason for Rulemaking	Description of Current Rule or Statute to be Implemented	Description of Changes to be Made in Rulemaking	Economic Impact	Highly Technical or Complicated
40E-61.301	Conditions for Issuance for Individual and Collective Permits	Rule Amendment	Statutory Mandate (federal or state) (Include effective date)	373.4595, F.S. (2007)	Sets forth the conditions that must be met in order to obtain an individual or collective permit under this chapter	This chapter is being amended to update the existing nutrient source control requirements under the Northern Everglades and Estuaries Protection Plan (NEEPP) and the resultant Lake Okeechobee, Caloosahatchee River, and St. Lucie River Watershed Protection Plans. The source control requirement is a critical element for successfully achieving the overall water quality restoration goals.	SERC	Yes
40E-61.321	Duration of Permits	Rule Amendment	Statutory Mandate (federal or state) (Include effective date)	373.4595, F.S. (2007)	Sets forth the duration of an individual or general permit issued pursuant to this chapter	This chapter is being amended to update the existing nutrient source control requirements under the Northern Everglades and Estuaries Protection Plan (NEEPP) and the resultant Lake Okeechobee, Caloosahatchee River, and St. Lucie River Watershed Protection Plans. The source control requirement is a critical element for successfully achieving the overall water quality restoration goals.	SERC	Yes

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Rule Number	Rule Title	Rulemaking Action	Reason for Rulemaking	Additional Details on Reason for Rulemaking	Description of Current Rule or Statute to be Implemented	Description of Changes to be Made in Rulemaking	Economic Impact	Highly Technical or Complicated
40E-61.331	Modification	Rule Amendment	Statutory Mandate (federal or state) (Include effective date)	373.4595, F.S. (2007)	Explains that applications for modifications use the same criteria as new applications	This chapter is being amended to update the existing nutrient source control requirements under the Northern Everglades and Estuaries Protection Plan (NEEPP) and the resultant Lake Okeechobee, Caloosahatchee River, and St. Lucie River Watershed Protection Plans. The source control requirement is a critical element for successfully achieving the overall water quality restoration goals.	SERC	Yes
40E-61.351	Transfer	Rule Amendment	Statutory Mandate (federal or state) (Include effective date)	373.4595, F.S. (2007)	Requires permittees to notify the District within 30 days of the sale or conveyance of land or works permitted under this rule chapter	This chapter is being amended to update the existing nutrient source control requirements under the Northern Everglades and Estuaries Protection Plan (NEEPP) and the resultant Lake Okeechobee, Caloosahatchee River, and St. Lucie River Watershed Protection Plans. The source control requirement is a critical element for successfully achieving the overall water quality restoration goals.	SERC	Yes

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Rule Number	Rule Title	Rulemaking Action	Reason for Rulemaking	Additional Details on Reason for Rulemaking	Description of Current Rule or Statute to be Implemented	Description of Changes to be Made in Rulemaking	Economic Impact	Highly Technical or Complicated
40E-61.381	Limiting Conditions	Rule Amendment	Statutory Mandate (federal or state) (Include effective date)	373.4595, F.S. (2007)	Sets forth limiting conditions for issuance of permits pursuant to this chapter	This chapter is being amended to update the existing nutrient source control requirements under the Northern Everglades and Estuaries Protection Plan (NEEPP) and the resultant Lake Okeechobee, Caloosahatchee River, and St. Lucie River Watershed Protection Plans. The source control requirement is a critical element for successfully achieving the overall water quality restoration goals.	SERC	Yes
40E-61.XXX	Forms, Instructions, and References	New Rule	Statutory Mandate (federal or state) (Include effective date)	373.4595 F.S. (2007)	List all publications incorporated by reference in this chapter	This chapter is being amended to update the existing nutrient source control requirements under the Northern Everglades and Estuaries Protection Plan (NEEPP) and the resultant Lake Okeechobee, Caloosahatchee River, and St. Lucie River Watershed Protection Plans. The source control requirement is a critical element for successfully achieving the overall water quality restoration goals.	SERC	Yes

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Rule Number	Rule Title	Rulemaking Action	Reason for Rulemaking	Additional Details on Reason for Rulemaking	Description of Current Rule or Statute to be Implemented	Description of Changes to be Made in Rulemaking	Economic Impact	Highly Technical or Complicated
40E-61.XXX	Lake Okeechobee Watershed Drainage Basin Performance	New Rule	Statutory Mandate (federal or state) (Include effective date)	373.4595, F.S. (2007)	Sets forth a metric of performance for the source controls	This chapter is being amended to update the existing nutrient source control requirements under the Northern Everglades and Estuaries Protection Plan (NEEPP) and the resultant Lake Okeechobee, Caloosahatchee River, and St. Lucie River Watershed Protection Plans. The source control requirement is a critical element for successfully achieving the overall water quality restoration goals.	SERC	Yes
40E-61.XXX	Permit Compliance and Enforcement	New Rule	Statutory Mandate (federal or state) (Include effective date)	373.4595, F.S. (2007)	Sets forth the compliance criteria to be used for permits granted under this chapter.	This chapter is being amended to update the existing nutrient source control requirements under the Northern Everglades and Estuaries Protection Plan (NEEPP) and the resultant Lake Okeechobee, Caloosahatchee River, and St. Lucie River Watershed Protection Plans. The source control requirement is a critical element for successfully achieving the overall water quality restoration goals.	SERC	Yes

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Rule Number	Rule Title	Rulemaking Action	Reason for Rulemaking	Additional Details on Reason for Rulemaking	Description of Current Rule or Statute to be Implemented	Description of Changes to be Made in Rulemaking	Economic Impact	Highly Technical or Complicated
40E-63.011	Policy and Purpose	Rule Amendment	Statutory Mandate (federal or state) (Include effective date)	373.4595, F.S. (2007)	Explains the policy and purpose of specified basins within the SFWMD which are integral to operation, maintenance and protection of the SFWMD's water resources	This chapter is being amended to update the existing nutrient source control requirements under the Everglades Forever Act (EFA), the Northern Everglades and Estuaries Protection Plan (NEEPP) and the resultant Lake Okeechobee Watershed Protection Plan. The source control requirement is a critical element for successfully achieving the overall water quality restoration goals for the Lake and the Everglades.	SERC	Yes
40E-63.091	Publications Incorporated by Reference	Rule Amendment	Statutory Mandate (federal or state) (Include effective date)	373.4595, F.S. (2007)	List all publications incorporated by reference in this chapter	This chapter is being amended to update the existing nutrient source control requirements under the Everglades Forever Act (EFA), the Northern Everglades and Estuaries Protection Plan (NEEPP) and the resultant Lake Okeechobee Watershed Protection Plan. The source control requirement is a critical element for successfully achieving the overall water quality restoration goals for the Lake and the Everglades.	SERC	Yes

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Rule Number	Rule Title	Rulemaking Action	Reason for Rulemaking	Additional Details on Reason for Rulemaking	Description of Current Rule or Statute to be Implemented	Description of Changes to be Made in Rulemaking	Economic Impact	Highly Technical or Complicated
40E-63.101	Scope	Rule Amendment	Statutory Mandate (federal or state) (Include effective date)	373.4595, F.S. (2007)	Sets forth the scope of this Part I of this chapter concerning the EAA Basin. The SFWMD is responsible for implementing the Everglages Forever Act.	This chapter is being amended to update the existing nutrient source control requirements under the Everglades Forever Act (EFA), the Northern Everglades and Estuaries Protection Plan (NEEPP) and the resultant Lake Okeechobee Watershed Protection Plan. The source control requirement is a critical element for successfully achieving the overall water quality restoration goals for the Lake and the Everglades.	SERC	Yes
40E-63.102	Definitions	Rule Amendment	Statutory Mandate (federal or state) (Include effective date)	373.4595, F.S. (2007)	Defines the terms used throughout Part I of this Chapter.	This chapter is being amended to update the existing nutrient source control requirements under the Everglades Forever Act (EFA), the Northern Everglades and Estuaries Protection Plan (NEEPP) and the resultant Lake Okeechobee Watershed Protection Plan. The source control requirement is a critical element for successfully achieving the overall water quality restoration goals for the Lake and the Everglades.	SERC	Yes

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Rule Number	Rule Title	Rulemaking Action	Reason for Rulemaking	Additional Details on Reason for Rulemaking	Description of Current Rule or Statute to be Implemented	Description of Changes to be Made in Rulemaking	Economic Impact	Highly Technical or Complicated
40E-63.104	EAA Basin Boundaries	Rule Amendment	Statutory Mandate (federal or state) (Include effective date)	373.4595, F.S. (2007)	Describes the boundaries for the EAA Basin	This chapter is being amended to update the existing nutrient source control requirements under the Everglades Forever Act (EFA), the Northern Everglades and Estuaries Protection Plan (NEEPP) and the resultant Lake Okeechobee Watershed Protection Plan. The source control requirement is a critical element for successfully achieving the overall water quality restoration goals for the Lake and the Everglades.	SERC	Yes
40E-63.106	Works of the District within the Lake Okeechobee Basin	Rule Amendment	Statutory Mandate (federal or state) (Include effective date)	373.4595, F.S. (2007)	Lists the Works of the District within the Lake Okeechobee Drainage Basin	This chapter is being amended to update the existing nutrient source control requirements under the Everglades Forever Act (EFA), the Northern Everglades and Estuaries Protection Plan (NEEPP) and the resultant Lake Okeechobee Watershed Protection Plan. The source control requirement is a critical element for successfully achieving the overall water quality restoration goals for the Lake and the Everglades.	SERC	Yes

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40E-63.108	Implementation	Rule Amendment	Statutory Mandate (federal or state) (Include effective date)	373.4595, F.S. (2007)	Sets forth the effective date of this rule chapter.	This chapter is being amended to update the existing nutrient source control requirements under the Everglades Forever Act (EFA), the Northern Everglades and Estuaries Protection Plan (NEEPP) and the resultant Lake Okeechobee Watershed Protection Plan. The source control requirement is a critical element for successfully achieving the overall water quality restoration goals for the Lake and the Everglades.	SERC	Yes
40E-63.110	Permits Required	Rule Amendment	Statutory Mandate (federal or state) (Include effective date)	373.4595, F.S. (2007)	Specifies the parcels of land that connect with or make use of the Works of the District within the EAA Basin that require general, individual, or master permits.	This chapter is being amended to update the existing nutrient source control requirements under the Everglades Forever Act (EFA), the Northern Everglades and Estuaries Protection Plan (NEEPP) and the resultant Lake Okeechobee Watershed Protection Plan. The source control requirement is a critical element for successfully achieving the overall water quality restoration goals for the Lake and the Everglades.	SERC	Yes

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Rule Number	Rule Title	Rulemaking Action	Reason for Rulemaking	Additional Details on Reason for Rulemaking	Description of Current Rule or Statute to be Implemented	Description of Changes to be Made in Rulemaking	Economic Impact	Highly Technical or Complicated
40E-63.120	General Permits for Use of Works of the District within the Everglades	Rule Amendment	Statutory Mandate (federal or state) (Include effective date)	373.4595, F.S. (2007)	Provides a general permit with conditions for specific parcels of land.	This chapter is being amended to update the existing nutrient source control requirements under the Everglades Forever Act (EFA), the Northern Everglades and Estuaries Protection Plan (NEEPP) and the resultant Lake Okeechobee Watershed Protection Plan. The source control requirement is a critical element for successfully achieving the overall water quality restoration goals for the Lake and the Everglades.	SERC	Yes
40E-63.130	Individual Permits Application Requirements in the EAA Basin	Rule Amendment	Statutory Mandate (federal or state) (Include effective date)	373.4595, F.S. (2007)	Sets forth the requirements for applications for individual permits required by this chapter.	This chapter is being amended to update the existing nutrient source control requirements under the Everglades Forever Act (EFA), the Northern Everglades and Estuaries Protection Plan (NEEPP) and the resultant Lake Okeechobee Watershed Protection Plan. The source control requirement is a critical element for successfully achieving the overall water quality restoration goals for the Lake and the Everglades.	SERC	Yes

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Rule Number	Rule Title	Rulemaking Action	Reason for Rulemaking	Additional Details on Reason for Rulemaking	Description of Current Rule or Statute to be Implemented	Description of Changes to be Made in Rulemaking	Economic Impact	Highly Technical or Complicated
40E-63.132	Content of Applications for Individual Permits in the EAA Basin	Rule Amendment	Statutory Mandate (federal or state) (Include effective date)	373.4595, F.S. (2007)	Sets forth the requirements for content of applications for individual permits required by this chapter.	This chapter is being amended to update the existing nutrient source control requirements under the Everglades Forever Act (EFA), the Northern Everglades and Estuaries Protection Plan (NEEPP) and the resultant Lake Okeechobee Watershed Protection Plan. The source control requirement is a critical element for successfully achieving the overall water quality restoration goals for the Lake and the Everglades.	SERC	Yes
40E-63.134	Permit Application Processing Fee for Individual Permits in the EAA Basin	Rule Amendment	Statutory Mandate (federal or state) (Include effective date)	373.4595, F.S. (2007)	Sets forth the conditions in which an Individual Permit will be issued under this chapter	This chapter is being amended to update the existing nutrient source control requirements under the Everglades Forever Act (EFA), the Northern Everglades and Estuaries Protection Plan (NEEPP) and the resultant Lake Okeechobee Watershed Protection Plan. The source control requirement is a critical element for successfully achieving the overall water quality restoration goals for the Lake and the Everglades.	SERC	Yes

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Rule Number	Rule Title	Rulemaking Action	Reason for Rulemaking	Additional Details on Reason for Rulemaking	Description of Current Rule or Statute to be Implemented	Description of Changes to be Made in Rulemaking	Economic Impact	Highly Technical or Complicated
40E-63.134	Conditions for Issuance for Individual Permits in the EAA Basin	Rule Amendment	Statutory Mandate (federal or state) (Include effective date)	373.4595, F.S. (2007)	Sets forth the conditions in which an Individual Permit will be issued under this chapter	This chapter is being amended to update the existing nutrient source control requirements under the Everglades Forever Act (EFA), the Northern Everglades and Estuaries Protection Plan (NEEPP) and the resultant Lake Okeechobee Watershed Protection Plan. The source control requirement is a critical element for successfully achieving the overall water quality restoration goals for the Lake and the Everglades.	SERC	Yes
40E-63.138	Duration of Individual Permits in the EAA Basin	Rule Amendment	Statutory Mandate (federal or state) (Include effective date)	373.4595, F.S. (2007)	Sets forth the duration of an individual permit issued pursuant to this chapter.	This chapter is being amended to update the existing nutrient source control requirements under the Everglades Forever Act (EFA), the Northern Everglades and Estuaries Protection Plan (NEEPP) and the resultant Lake Okeechobee Watershed Protection Plan. The source control requirement is a critical element for successfully achieving the overall water quality restoration goals for the Lake and the Everglades.	SERC	Yes

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Rule Number	Rule Title	Rulemaking Action	Reason for Rulemaking	Additional Details on Reason for Rulemaking	Description of Current Rule or Statute to be Implemented	Description of Changes to be Made in Rulemaking	Economic Impact	Highly Technical or Complicated
40E-63.140	Modification of Individual Permits in the EAA Basin	Rule Amendment	Statutory Mandate (federal or state) (Include effective date)	373.4595, F.S. (2007)	Explains that applications for modifications use the same criteria as new applications.	This chapter is being amended to update the existing nutrient source control requirements under the Everglades Forever Act (EFA), the Northern Everglades and Estuaries Protection Plan (NEEPP) and the resultant Lake Okeechobee Watershed Protection Plan. The source control requirement is a critical element for successfully achieving the overall water quality restoration goals for the Lake and the Everglades.	SERC	Yes
40E-63.143	Limiting Conditions for Individual Permits in the EAA Basin	Rule Amendment	Statutory Mandate (federal or state) (Include effective date)	373.4595, F.S. (2007)	Sets forth limiting conditions the Governing Board may impose on any individual permit granted under this chapter.	This chapter is being amended to update the existing nutrient source control requirements under the Everglades Forever Act (EFA), the Northern Everglades and Estuaries Protection Plan (NEEPP) and the resultant Lake Okeechobee Watershed Protection Plan. The source control requirement is a critical element for successfully achieving the overall water quality restoration goals for the Lake and the Everglades.	SERC	Yes

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Rule Number	Rule Title	Rulemaking Action	Reason for Rulemaking	Additional Details on Reason for Rulemaking	Description of Current Rule or Statute to be Implemented	Description of Changes to be Made in Rulemaking	Economic Impact	Highly Technical or Complicated
40E-63.145	Compliance and Enforcement of Individual Permitsin the EAA Basin	Rule Amendment	Statutory Mandate (federal or state) (Include effective date)	373.4595, F.S. (2007)	Sets forth the compliance criteria to be used for individual permits granted under this chapter.	This chapter is being amended to update the existing nutrient source control requirements under the Everglades Forever Act (EFA), the Northern Everglades and Estuaries Protection Plan (NEEPP) and the resultant Lake Okeechobee Watershed Protection Plan. The source control requirement is a critical element for successfully achieving the overall water quality restoration goals for the Lake and the Everglades.	SERC	Yes

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M E M O R A N D U M

TO: Governing Board Members

FROM: Dan DeLisi, Chief of Staff

DATE: June 13, 2013

SUBJECT: WRAC Charter Amendments - Policy

Background: The Water Resources Advisory Commission (WRAC) serves as an advisory body to the Governing Board and as a forum for improving public participation and decision-making in water resource issues affecting south Florida. This resolution amends the WRAC charter to address membership, appointment of a Vice Chair and attendance at meetings. The charter is being amended to delete certain agencies from providing technical assistance but allows for representation as needed, clarifies the appointment of a Vice Chair by the Governing Board Chair, and clarifies if a member misses three consecutive meetings, or four meeting in one year, their membership on the Commission will be forfeited.

How this helps meet the District's 10-year Strategic Plan: Under Mission Support, this item ensures the consequence for being absent from WRAC meetings is consistent and fair promoting efficient and productive advisory meetings.

Funding Source: There is no funding associated with this item.

This Board item impacts what areas of the District, both resource areas and geography: There are no impacts to organizational or geographical areas of the District for this item.

What concerns could this Board item raise? Governing Board members may receive feedback from WRAC members regarding the change in policy. WRAC members will be briefed on this change at the June 6 meeting.

Why should the Governing Board approve this item? This item will promote consistency and fairness with attendance requirements for WRAC members to ensure productive advisory meetings.

If you have questions, please contact me at ext. 6232.

SOUTH FLORIDA WATER MANAGEMENT DISTRICT

(ID # 1311)

A Resolution of the Governing Board of the South Florida Water Management District amending Sections 150-5, 150-6, and 150-7 of the District Policies Code regarding the Water Resources Advisory Commission (WRAC) to revise membership, appointment of a Vice Chair, and attendance provisions; providing for inclusion in the District Policies Code; providing for severability; providing an effective date. (EXO, Dan DeLisi, ext. 6232)

WHEREAS the Governing Board had determined that it is necessary, appropriate and in the public interest to amend Sections 150-5, 150-6, and 150-7 of the District Policies Code regarding the Water Resources Advisory Commission (WRAC) to revise membership, appointment of Vice Chairman, and attendance provisions; now therefore

BE IT RESOLVED BY THE GOVERNING BOARD OF THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT:

Section 1. The Governing Board adopts the following amendments to the District Policies Code:

Sec. 150-5.- Membership.
The following agencies and entities shall be requested to provide a representative to attend Commission meetings to provide technical assistance to the Commission. The individuals from these agencies and entities who attend Commission meetings shall not be considered members of the Commission. Other agencies and entities may be requested to provide representation as needed.

(1) U.S. Army Corps of Engineers;
(2) U.S. Department of the Interior;
~~(3) U.S. Environmental Protection Agency;~~
~~(4) National Oceanic and Atmospheric Administration;~~
~~(5)~~ (3) Florida Department of Environmental Protection;
~~(6)~~ (4) Florida Department of Agriculture and Consumer Services;
~~(7) Florida Department of Community Affairs;~~
~~(8)~~ (5) Florida Department of Transportation;
~~(9)~~ (6) Florida Fish and Wildlife Conservation Commission.

Sec. 150-6.- Appointments.
The Chairperson and Vice Chairperson of the Commission shall be selected by the Governing Board Chair.

Sec. 150-7. - Meetings.
The Commission shall meet on a regular basis as necessary to complete the tasks set out in the mission of the Commission in accordance with the PP. The Commission shall also meet upon the call of the Governing Board chairperson or as directed by vote of the

Governing Board. A member~~, or his or her alternate~~, ~~that~~ who misses three consecutive meetings or four meetings in one year will forfeit his or her membership on the Commission and a vacancy shall be deemed to have been created.

Section 2. Inclusion of Section 1 of this resolution in the District Policies Code is authorized and directed.

Section 3. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this resolution is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this resolution.

Section 4. This resolution shall take effect immediately on adoption.

PASSED and **ADOPTED** this 13th day of June, 2013.

SOUTH FLORIDA WATER MANAGEMENT DISTRICT, BY ITS GOVERNING BOARD
By:

_____
Chairman

Attest:

_____
District Clerk/Secretary

Legal form approved:
By:

_____
Office of Counsel

Print name:

_____

M E M O R A N D U M

TO: Governing Board Members

FROM: Tommy Strowd, Assistant Executive Director

DATE: June 13, 2013

SUBJECT: Directing staff to move forward to analyze options for disposal of 6,250 acres-propose rec.

Background:
Over six decades, the South Florida Water Management District has acquired nearly 1.5 million acres of land within its 16-county jurisdiction to support flood control infrastructure, protect water resources and restore impaired ecosystems. As part of a broad effort to maximize its resources to meet mission-critical responsibilities, the District is conducting a comprehensive land assessment to ensure that each parcel is being put to its most effective use. For the land assessment process, the 16-county District has been divided into five geographic regions for which each parcel of District land is thoroughly analyzed to determine how its current use contributes to the agency's core mission of balancing and improving water quality, flood control, natural systems and water supply. The completion of the comprehensive process for the first of the five regions, the “Kissimmee/Okeechobee” region, has resulted in conclusions involving the potential for surplus with respect to tracts comprising 6,250 acres, more or less, in Okeechobee, Osceola, Polk, Highlands and Glades Counties. The tracts are depicted and the respective background facts and considerations are briefly summarized on Exhibits “A-1” through “A-8” attached hereto and made a part hereof

It is intended that District staff will now further analyze options for their potential surplus and thereafter propose recommendations to the Governing Board for further consideration. With respect to these subject tracts, they may be offered by the District to another governmental entity pursuant to terms and conditions approved by the Governing Board, they may be conveyed as part of an exchange transaction upon terms and conditions approved by the Governing Board, or they may be offered to the public for bid and be sold for the highest price obtainable but not less than the appraised value. Whatever tracts or portions thereof are further considered for surplus, the final acres and applicable market values may be altered based on certain easement rights that may be reserved and/or certain cut outs that may occur. With respect to any of the subject tracts, the conveyance of the fee title may be subject to certain reservations and/or adjustments because of project needs or other considerations. All disposals shall be conditioned on United States Army Corps of Engineers and Florida Department of Environmental Protection approval where required.

How this helps meet the District’s 10-year Strategic Plan:

The continuation of the land assessment process represented by this item, contributes to the agency's core mission of balancing and improving water quality, flood control, natural systems and water supply.

Funding Source:
All disposals shall be subject to funding source requirements.

This Board item impacts what areas of the District, both resource areas and geography:
The item will fall under the entire Operations, Maintenance and Construction Division resource area.

What concerns could this Board item raise?
There are no concerns regarding this Board item.

Why should the Governing Board approve this item?
As stated herein, the land assessment process is being conducted as part of a broad effort to maximize District resources to meet mission-critical responsibilities and ensure that land is being put to its most effective use. With approval of this item, further necessary analysis will be conducted to allow further recommendations to the Governing Board regarding the potential surplus of specific tracts or portions thereof.

SOUTH FLORIDA WATER MANAGEMENT DISTRICT

(ID # 1294)

A Resolution of the Governing Board of the South Florida Water Management District, directing staff to move forward to analyze options for disposal of land interests containing 6,250 acres, more or less, in Okeechobee, Osceola, Polk, Highlands and Glades Counties, together with any structures and improvements and personal property appurtenant thereto, and thereafter propose recommendations to the Governing Board for further approval; providing an effective date. (OMC, Ray Palmer, ext. 2246)

WHEREAS, as part of a land assessment process conducted by District staff, certain lands containing a total of 6,250 acres, more or less, located in the Okeechobee, Osceola, Polk, Highlands, and Glades Counties have been identified as potentially being surplus to District needs; and

WHEREAS, the Governing Board, pursuant to Section 373.056, Florida Statutes, has the authority to convey to any governmental entity, land or rights in land owned by the District not required for its purposes, under terms and conditions determined by the Governing Board; and

WHEREAS, the Governing Board, pursuant to Section 373.089, Florida Statutes, has the authority to convey as part of an exchange transaction, land or rights in land owned by the District not required for its purposes, under terms and conditions determined by the Governing Board; and

WHEREAS, the Governing Board, pursuant to Section 373.089, Florida Statutes, has the authority to sell lands, or interests, or rights in land owned by the District not required for its purposes, for the highest price obtainable, but not less than the appraised value; and

WHEREAS, the Governing Board concurs with staff that the land assessment process has identified certain lands as potentially being surplus to District needs and directs staff to move forward to analyze the options for disposal of the subject lands and thereafter propose recommendations to the Governing Board for further approval.

NOW THEREFORE, **BE IT RESOLVED** by the Governing Board of the South Florida Water Management District:

Section 1: The Governing Board of the South Florida Water Management District hereby concurs with the staff that the land assessment process has identified certain lands described in Exhibits “A-1” through “A-8” attached hereto and made a part hereof, together with any structures and improvements and personal property appurtenant thereto, containing a total of 6,250 acres, more or less, located in the Okeechobee, Osceola, Polk, Highlands, and Glades Counties as potentially being surplus to District

needs.

Section 2: The Governing Board directs staff to move forward to analyze the options for disposal of the subject lands and thereafter propose recommendations to the Governing Board for further approval, which recommendations may include: (i) conveying to a governmental entity upon terms and conditions approved by the Governing Board in accordance with the provisions of Section 373.056 Florida Statutes, (ii) conveying as part of an exchange transaction upon terms and conditions approved by the Governing Board in accordance with the provisions of Section 373.089 Florida Statutes, and/or (iii) offering to the public for bid and sold for the highest price obtainable, but in no event less than the appraised value, in accordance with the provisions of Section 373.089, Florida Statutes.

Section 3: All disposals will be subject to funding source requirements, and conditioned on United Stated Army Corps of Engineers and/or Florida Department of Environmental approval where required.

Section 4: This Resolution is effective immediately upon adoption.

PASSED and **ADOPTED** this 13th day of June, 2013.

SOUTH FLORIDA WATER MANAGEMENT DISTRICT, BY ITS GOVERNING BOARD
By:

_____
Chairman

Attest:

_____
District Clerk/Secretary

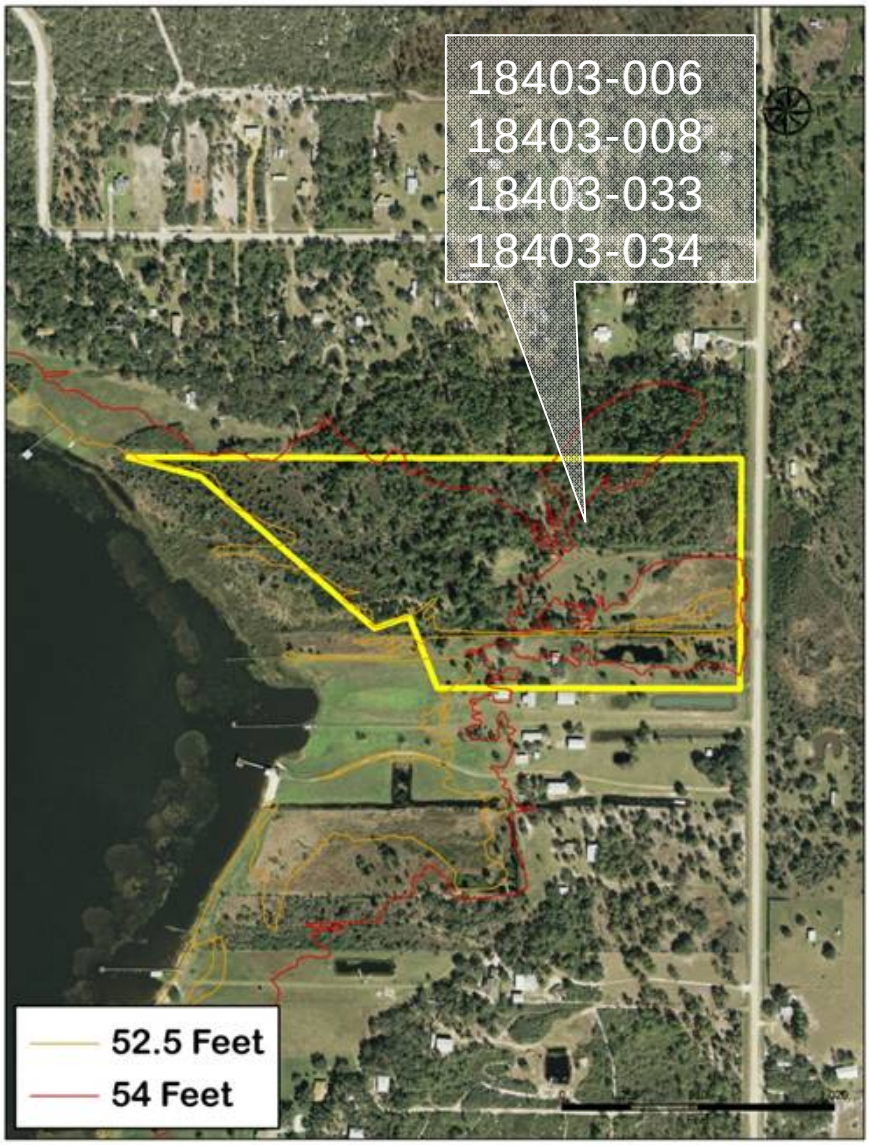
Legal form approved:
By:

_____
Office of Counsel

Print name:

_____

EXHIBIT A-1

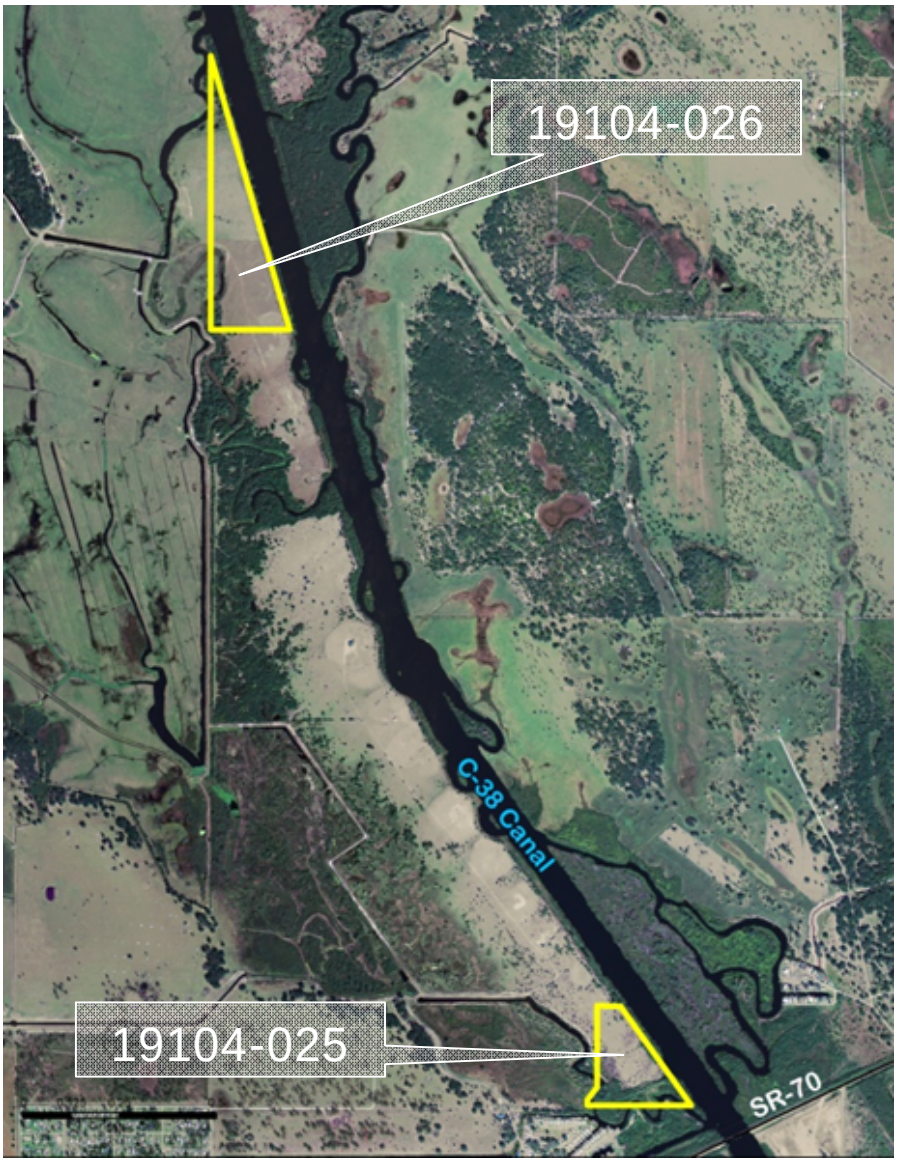


Tiger Lake (~31.71 acres)

The District acquired flowage easement interests below the 54 foot contour around most of Tiger Lake to support the goal of raising water stages for the benefit of the Kissimmee River Restoration. The subject tracts represent the only four tracts where the fee simple interest was acquired. The acquisition of the fee-simple interest satisfied the needs of the restoration project, but it is likely that the acquisition of a flowage easement, consistent with the rest of Tiger Lake, would have been adequate as well. The further analysis of these tracts will consider the disposal, exchange, or surplus of the District's fee-simple interest and the retention of a flowage and/or conservation easement over the portion of the property lying below the 54-foot contour.

Attachment: ca_om_202_Exhibits 1 - 8 (06-03-2013) (Resolution No. 2013 - 0612 : Directing staff to move forward to analyze options for

EXHIBIT A-2



Pool E Spoil Sites (~69.15 acres)

These two tracts are isolated parcels on the western spoil bank of the C-38 canal, north of State Road 70. They were acquired before overall plans for the Kissimmee River had been established. The areas consist of highly disturbed ground with covered by pasture grasses, Brazilian pepper and cabbage palms. The District's mission is better served by focusing management and restoration activities on areas of regional significance, rather than having limited management and restoration funding diluted by small isolated sites with limited resource value. The further analysis of these tracts will consider disposal, exchange, or surplus subject to an acceptable conservation easement along the bank of the oxbow channel on the southern tract.

Attachment: ca_om_202_Exhibits 1 - 8 (06-03-2013) (Resolution No. 2013 - 0612 : Directing staff to move forward to analyze options for

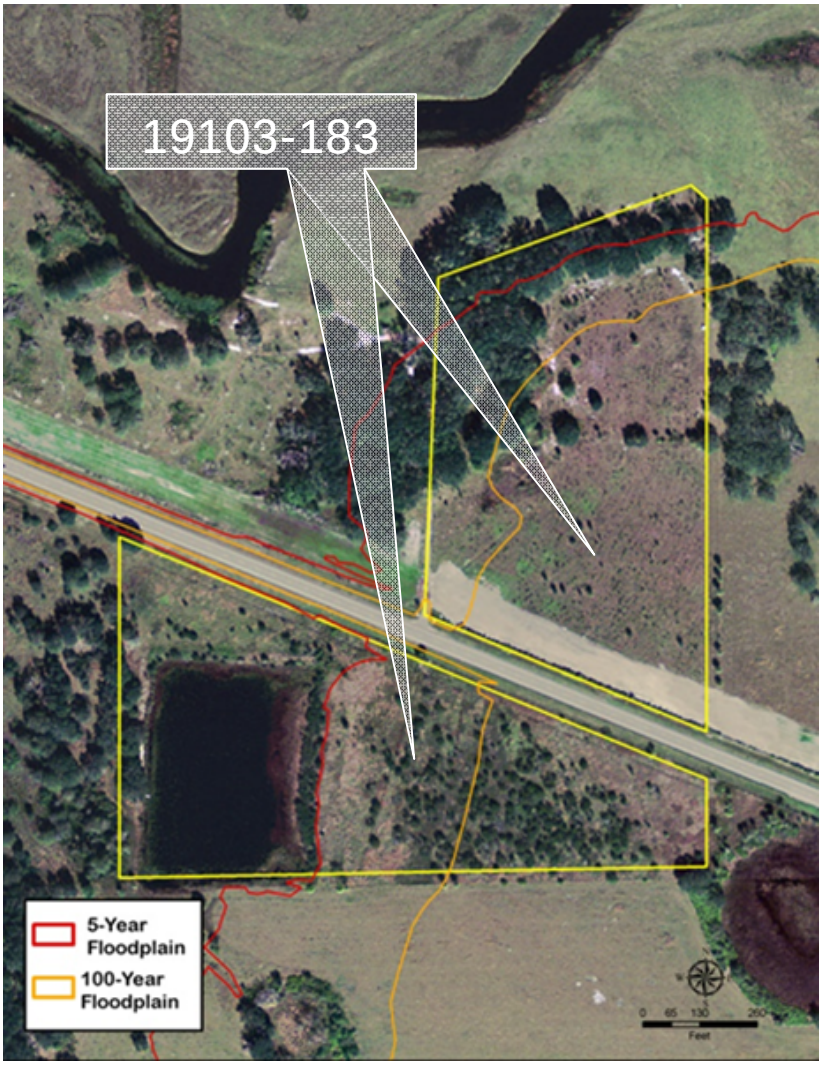
EXHIBIT A-3

St. Cloud Field Station (~20.41 acres)

This tract was acquired as a site on which a field station (a large regional maintenance and staging facility) was to be constructed, but was not used for that purpose. The field station facility was ultimately constructed at its present location on Old Canoe Creek Road. Consideration will be given to the fact that within one of the pine trees on the site, an eagle's nest has been utilized in recent nesting seasons. The further analysis of this tract will consider disposal, exchange, or surplus of the property.

Attachment: ca_om_202_Exhibits 1 - 8 (06-03-2013) (Resolution No. 2013 - 0612 : Directing staff to move forward to analyze options for

EXHIBIT A-4

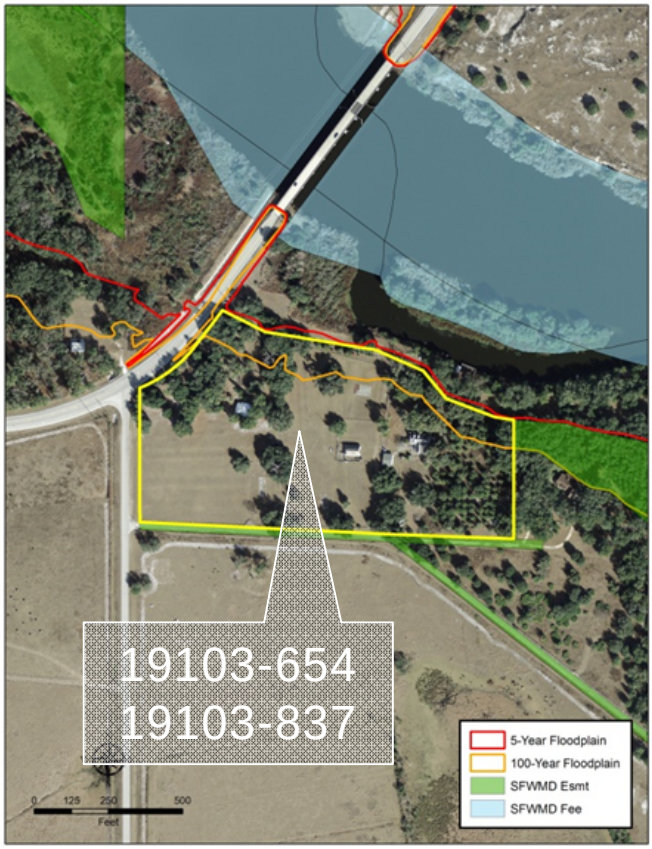


4Es, South of 98 (~15 acres)

The entire tract 19103-183 containing 29.3 acres and lying on both sides of U.S. 98, was purchased in 1997. The evaluation of potential surplus is with respect to the approximately 15 acre portion lying south of U.S. 98, which is effectively an outparcel lying separate and apart from any other land. The District's mission is best served by focusing management and restoration activities on landscape-scale areas of regional significance, rather than having limited management and restoration funding diluted by small isolated sites with limited resource value. Approximately 5 acres of the 15-acre parcel is outside of and above the 100-year floodplain and therefore not necessary for the Kissimmee River Restoration Project. The District's mission objectives would be adequately served with a flowage and/or conservation easement on the 10-acre portion within the 100-year floodplain. The further analysis of this tract will consider disposal, exchange, or surplus of the District's fee-simple interest and the retention of a flowage and/or conservation easement over the portion lying within the 100-year floodplain.

Attachment: ca_om_202_Exhibits 1 - 8 (06-03-2013) (Resolution No. 2013 - 0612 : Directing staff to move forward to analyze options for

EXHIBIT A-5

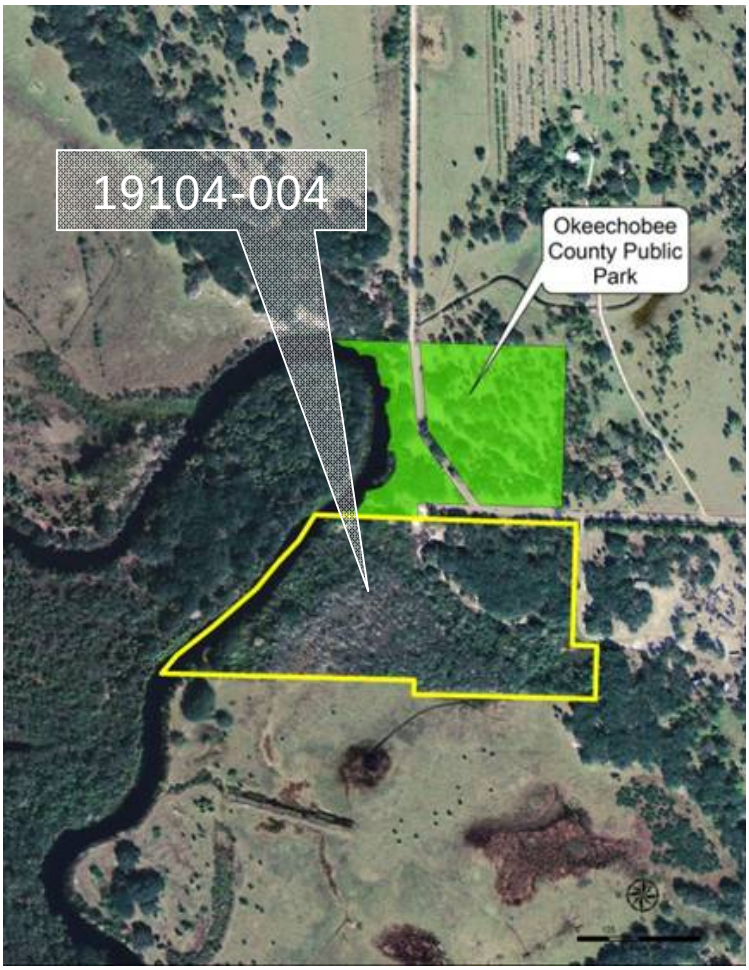


Pearce-Lockett Estate (~16.65 acres)

In 1993 the District acquired the Pearce-Lockett Estate through a donation as part of the Kissimmee River Restoration Project. The site was donated by the family with the understanding that the property and certain on site historic structures would be open to the public and maintained as a cultural/historic site. Since then the District has provided maintenance to sustain the property in its current condition. There have been several attempts to find a management partner for the site and there have been many interested parties that expressed an interest in developing some sort of historic or public use facility on the property. These have included: a state park, a county park, a historic museum, an agricultural museum, a hostel for hikers using the Florida Trail, and a visitor/research center associated with the Kissimmee River Restoration. Unfortunately none of these proposals have ever come to pass. The District has neither the funding available nor the specialized expertise necessary to restore the historic buildings to a condition suitable to public use, and the site deteriorates further every year that a willing partner is not found. The further analysis of this tract will consider the disposal, exchange, or surplus of the tract and its on-site structures with a reservation of a flowage easement over a 2.73 acre portion lying within of the 100-year floodplain and with restrictive covenants regarding maintaining it as a historic and educational site open to the public over the entire property.

Attachment: ca_om_202_Exhibits 1 - 8 (06-03-2013) (Resolution No. 2013 - 0612 : Directing staff to move forward to analyze options for

EXHIBIT A-6

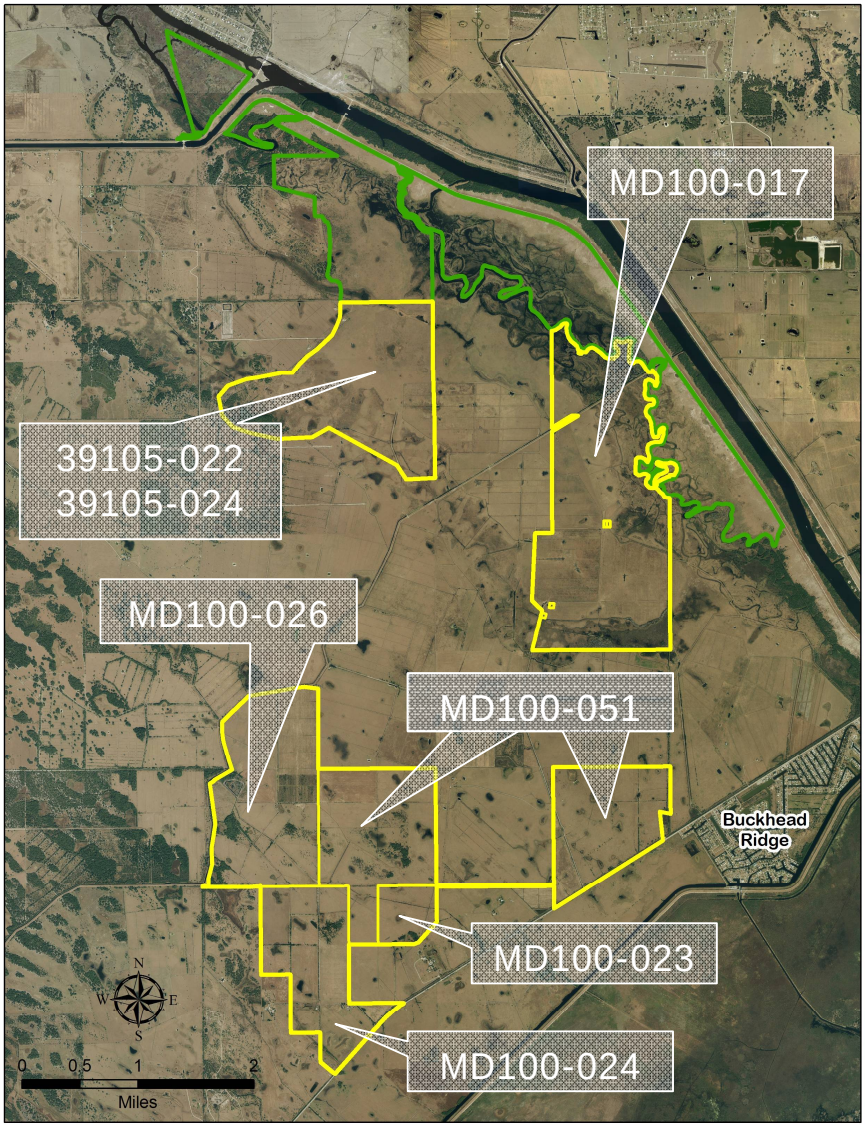


Telex Marsh (~20.03 acres)

This is a 20-acre tract that lies near the western end of 56th Street northwest of the City of Okeechobee. The County Parks Department owns the adjacent parcel to the north. There is a canoe/kayak launch located at the end of 56th street on the old river run that separates the tract as an outparcel from the District's ownership within the historic floodplain. Staff recognizes that the site is managed by Okeechobee County under a long-term lease, and therefore is managed at no cost to the District. However, as an isolated outparcel, the site serves little benefit to the District's core missions. It is further recognized that the County accepted the management of the property primarily because of the launch facility on the northern end. The further analysis of this tract will consider conveyance to the County of all or a portion of the tract and, with respect to any portion of the site for which Okeechobee County has no interest, disposal, exchange, or surplus subject to an acceptable conservation easement along the bank of the oxbow channel.

Attachment: ca_om_202_Exhibits 1 - 8 (06-03-2013) (Resolution No. 2013 - 0612 : Directing staff to move forward to analyze options for

EXHIBIT A-7



Pool E – North of Lake (~5,692 acres)

These tracts lie northwest of Lake Okeechobee and were primarily acquired to provide storage and treatment for water coming off of the nearby agricultural lands to reduce the amount of excess nutrients entering the lake. Such project plans have not been executed to date. This area was historically part of a large wet prairie system, approximately 20 miles wide that occupied much of the space between Lake Okeechobee and the Lake Wales Ridge to the northwest. Many years ago, the area was converted to improved cattle pasture, and remains as such today with the tracts being managed through grazing leases. While useful as an interim management tool, this does not fall within the scope of the District's core mission to maintain an agricultural use as a primary use of the land.

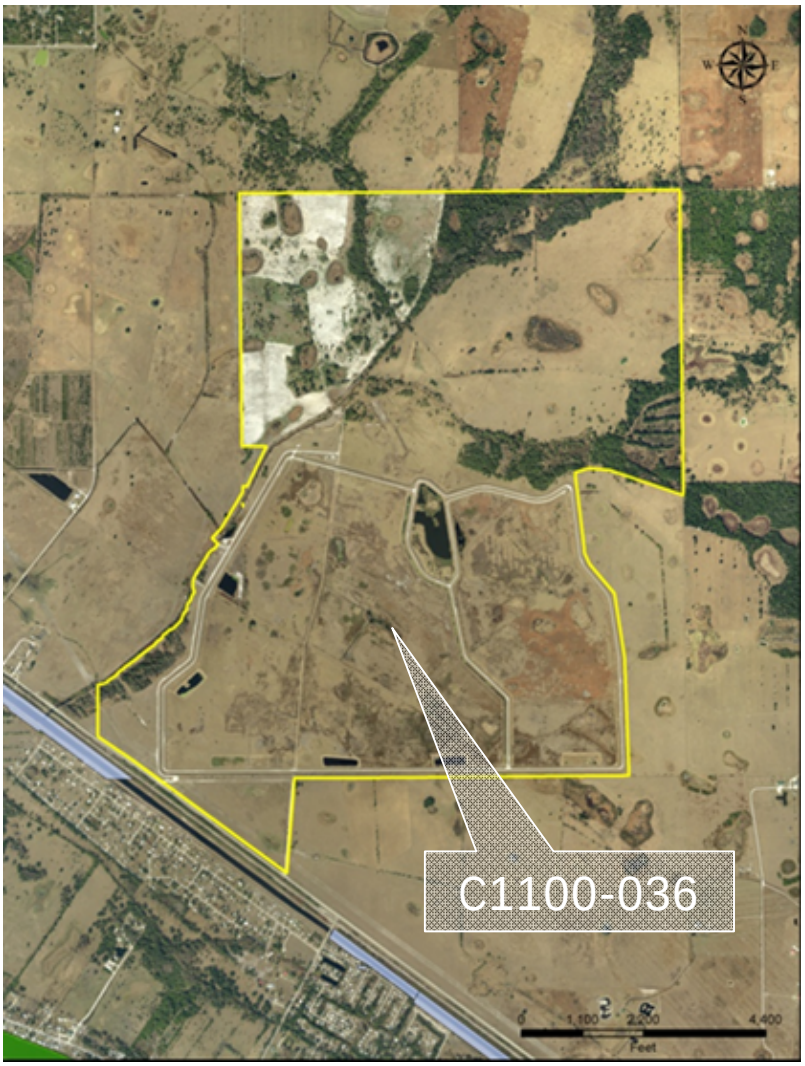
Attachment: ca_om_202_Exhibits 1 - 8 (06-03-2013) (Resolution No. 2013 - 0612 : Directing staff to move forward to analyze options for

EXHIBIT A-7 (cont.)

There are several other relevant factors associated with these tracts. Staff recognizes that there are water-treatment, storage, and habitat restoration needs within the Lake Okeechobee watershed. The current watershed planning initiatives, such as Basin Management Action Plan and the Northern Everglades, are expected to identify those needs. The sale or exchange of this land could provide the financial resource to develop the necessary projects where they most-needed to be developed. Another alternative, proposed by several commenters at the land assessment public meeting, would be the sale of these lands to fund the acquisition of land in support of restoration of the Paradise Run/Pool E floodplain and historic river system. Therefore, the further analysis of these tracts will consider disposal, exchange, or surplus of the District's fee-simple interest on those southernmost parcels in this assessment area, and also consider opportunities to exchange lands in the northernmost parcels not needed for either the implementation of Basin Management Action Plan or other Kissimmee River related plans.

Attachment: ca_om_202_Exhibits 1 - 8 (06-03-2013) (Resolution No. 2013 - 0612 : Directing staff to move forward to analyze options for

EXHIBIT A-8



Nubbin Slough (~385 acres)

This 1,957.69 acre tract lies northeast of Lake Okeechobee. It was acquired to provide treatment for water coming off of the nearby agricultural lands to reduce the amount of excess nutrients entering the lake. The southeastern portion of the site is being managed as a water quality treatment cell under final stages of construction. There is an area of improved pasture containing approximately 305 acres north of the treatment cell that is currently under a cattle lease. There has been no public use on any portion of the site due to the construction of the treatment cell and associated water control structures. Planning for facilitating public use within certain portions of the tract is underway. The site could potentially support the same kind of popular recreational uses as the Taylor Creek stormwater treatment area. The further analysis of this tract will include continued development of dispersed water management and public recreation features on the northern portion of the site and the disposal, exchange, or surplus of the other portions of the property outside of the project footprint that do not contribute to the District's core mission.

Attachment: ca_om_202_Exhibits 1 - 8 (06-03-2013) (Resolution No. 2013 - 0612 : Directing staff to move forward to analyze options for

40E-2.091 Publications Incorporated by Reference.

The "Basis of Review for Water Use Permit Applications within the South Florida Water Management District – _____ ~~October 23, 2012~~," http://www.flrules.org/Gateway/reference.asp?No=Ref-01630, is incorporated by reference herein, and requires the use of the following forms, which are also incorporated by reference herein:

(1) through (6) No Change.

The "Basis of Review for Water Use Permit Applications within the South Florida Water Management District" and forms incorporated therein are available at no cost by contacting the South Florida Water Management District Clerk's Office, 3301 Gun Club Road, West Palm Beach, FL 33406, 1(800)432-2045, ext. 6436 or (561) 682-6436.

Rulemaking Authority 373.044, 373.113, 373.118, 373.171 FS. Law Implemented 373.042, 373.0421, 373.109, 373.196, 373.219, 373.223, 373.224, 373.229, 373.232, 373.233, 373.236, 373.239, 373.250 FS. History–New 9-3-81, Formerly 16K-2.035(1), Amended 2-24-85, 11-21-89, 1-4-93, 4-20-94, 11-26-95, 7-11-96, 4-9-97, 12-10-97, 9-10-01, 12-19-01, 8-1-02, 6-9-03, 8-31-03, 4-23-07, 9-13-07, 2-13-08, 10-14-08, 7-2-09, 3-15-10, 3-18-10, 9-26-12, 10-23-12, _____.

Excerpt from the "Basis of Review for Water Use Permit Applications within the South Florida Water Management District – October 23, 2012":

3.11.1 Picayune Strand and Fakahatchee Estuary

No Change to Figure 3-6

A. No Change.

B. Model Impact Evaluation. If required by Section A, the applicant shall demonstrate water reserved for the Picayune Strand and Fakahatchee Estuary will not be withdrawn by conducting the following Model Impact Evaluation. A pre-application meeting between the Applicant and District staff is strongly recommended to be conducted prior to initiating model development.

1. Defining Scope of Model Evaluation

(a) For groundwater withdrawals, identify the cone of influence of the proposed withdrawal per Section 1.7.5.2.A. Based on this analysis, the Applicant shall identify which reservation inflow locations (set forth in Figures 1-2 and 1-3 ~~2~~ in Chapter ~~Rule~~ 40E-10~~.021~~, F.A.C.) and conveyance system(s) identified on Figure 3-6 are potentially influenced by the proposed withdrawal.

(b) For surface water withdrawals, identify the reservation inflow locations, reservation water body (set forth in Figures 1-2 and 1-3 ~~2~~ in Chapter ~~Rule~~ 40E-10~~.021~~, F.A.C.), and conveyance system(s)

Attachment: Biscayne Bay RuleText_FINAL_2013-05-20 (1309 : Nearshore Central Biscayne Bay Water Reservation Rule Adoption)

identified on Figure 3-6 that are potentially influenced by the proposed withdrawal.

2. through 5. No Change.

3.11.4 Nearshore Central Biscayne Bay

A permit applicant shall provide reasonable assurances that the proposed use will not withdraw water reserved under subsection 40E-10.061(1), F.A.C. Compliance with the following criteria constitutes reasonable assurances that water reserved in Rule 40E-10.061, F.A.C., will not be withdrawn. Water not reserved under Rule 40E-10.061, F.A.C., shall be allocated pursuant to Subsection A.

For this section, the following definitions apply:

Direct withdrawal: Withdrawal of surface water from facility intakes physically located within the surface water column of Nearshore Central Biscayne Bay as depicted on Figure 3-1 in Chapter 40E-10, F.A.C. No direct withdrawals shall be authorized pursuant to this rule.

Indirect withdrawal: Withdrawal of surface water from facility intakes physically located within the surface water column of any canal reach identified in Figure 3-1 in Chapter 40E-10, F.A.C.

A. The following uses do not withdraw reserved water:

1. Withdrawals of groundwater.
2. Withdrawals authorized by Rules 40E- 2.061 (No Notice General Permit by Rule) and 40E-20.302(2) and (3), F.A.C. (Dewatering General Water Use Permit and No- Notice Short Term Dewatering General Water Use Permit)
3. Renewals of indirect withdrawals authorized by a permit existing on [RULE ADOPTION DATE].
4. A permit modification involving an indirect withdrawal authorized by a permit existing on [RULE ADOPTION DATE] that does not change the source, increase the allocation or change withdrawal locations, such as replacement of existing surface water pumps or intakes, crop changes that do not change the allocation or timing of use, or decrease in allocation.
5. A new indirect withdrawal with no greater allocation and impact, including changes in timing, than a terminated or reduced permit that was existing on [RULE ADOPTION DATE] and occurs upstream of the same coastal structure.
6. Indirect withdrawals which do not withdraw reserved water as defined in Rule 40E-10.061 F.A.C.

Attachment: Biscayne Bay RuleText_FINAL_2013-05-20 (1309 : Nearshore Central Biscayne Bay Water Reservation Rule Adoption)

40E-10.021 Definitions.

(1) *Fakahatchee Estuary* – The area within the Ten Thousand Islands region including the following river/bay systems, from west to east: Blackwater River/Blackwater Bay, Whitney River/Buttonwood Bay, Pumpkin River/Pumpkin Bay, Wood River, Little Wood River and Faka Union Canal/Faka Union Bay, and Fakahatchee Bay as depicted in Figure 1-3 ~~2~~ Fakahatchee Estuary.

(2) *Picayune Strand* – The area located southwest of the Florida Panther National Wildlife Refuge, north of the Ten Thousand Islands NWR, east of the South Belle Meade State Conservation and Recreation Lands (CARL) Project, west of the Fakahatchee Strand Preserve State Park, and northeast of Collier-Seminole State Park as depicted in Figure 1-2 Picayune Strand. The legal description of the Picayune Strand is contained in Appendix 1-1.

(3) *North Fork of the St. Lucie River* – The area that extends from the Gordy Road structure (state plane coordinates, x851212.831, y1116105.7470), to the confluence of the North Fork of the St. Lucie River and the C-24 canal (state plane coordinates, x873,712.20, y1064,390.41) as depicted in Appendix 2 ~~3~~, Figure 2~~3~~-1.

(4) *Nearshore Central Biscayne Bay* – The area within Biscayne Bay up to 1640 feet (500 meters) from the shoreline beginning south of Shoal Point extending southward to north of Turkey Point as depicted in Figure 3-1.

Rulemaking Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.016, 373.026, 373.036, 373.1501, 373.1502, 373.219, 373.223, 373.4592, 373.4595, 373.470 FS. History–New 7-2-09, Amended 3-18-10, _____.

40E-10.031 Water Reservations Implementation.

(1) Applicants for consumptive use permits shall meet the requirements of this rule by providing reasonable assurances that Rules 40E-2.301 and 40E-20.301, F.A.C., and Section 3.11 of the "Basis of Review for Water Use Permit Applications within the South Florida Management District", incorporated by reference in Rule~~s~~ 40E-2.091 ~~and 40E-20.091~~, F.A.C., are met.

(2) and (3) No Change.

(4) Water reserved for the protection of fish and wildlife contained within Nearshore Central Biscayne Bay is defined in subsections 40E-10.061(1)-(2), F.A.C.

Rulemaking Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.016, 373.026, 373.036, 373.1501, 373.1502, 373.219, 373.223, 373.4592, 373.4595, 373.470 FS. History–New 7-2-09, Amended 3-18-10, _____.

40E-10.041 Water Reservation Areas: Lower West Coast Planning Area.

(1) Picayune Strand as defined in subsection 40E-10.021(2), F.A.C.:

(a) Surface waters:

1. All surface water contained within the Picayune Strand is reserved from allocation (see Figure 1-2).

2. All surface water flowing into the Picayune Strand identified below is reserved from allocation:

i. The surface water flows depicted on Figures 1-4.A, B, and C ~~3. A, B, and C~~, simulated at weir 'Miller2' within the Miller Canal (see Figure 1-2);

ii. The surface water flows depicted on Figures 1-5,A, B, and C ~~4. A, B, and C~~, simulated at weir 'FU3' within the Faka Union Canal (see Figure 1-2); and

Attachment: Biscayne Bay RuleText_FINAL_2013-05-20 (1309 : Nearshore Central Biscayne Bay Water Reservation Rule Adoption)

iii. The surface water flows depicted on Figures 1-6.A, B, and C ~~5. A, B and C~~ simulated at spillway 'Lucky LA' within the Merritt Canal (see Figure 1-2).

(b) No Change.

(2) Fakahatchee Estuary as defined in subsection 40E-10.021(1), F.A.C.:

(a) Surface waters:

The surface water flows into the Fakahatchee Estuary identified below are reserved from allocation:

1. The surface water flows depicted on Figures 1-7.A, B, and C ~~6. A, B and C~~ simulated at Faka Union Canal at structure FU1 (See Figure 1-3 ~~2~~);

2. The surface water flows depicted on Figures 1-8.A, B, and C ~~7. A, B and C~~ simulated at 'Miller@41' transect (beginning at coordinate 471365.13N, 599423.29 E Southeast to 479226.67N, 595105.77E (delivering surface water to Blackwater Bay and Buttonwood Bay) see Figure 1-3 ~~2~~);

3. The surface water flows depicted on Figures 1-9.A, B, and C ~~8. A, B and C~~ simulated at 'FU@41' transect (beginning at coordinate 480427.89N, 595005.67E Southeast to 487735.34N, 592478.09E (delivering surface water to Pumpkin Bay) see Figure 1-3 ~~2~~);

4. The surface water flows depicted on Figures 1-10.A, B, and C ~~9. A, B and C~~ simulated at 'Merritt@41' transect (beginning at coordinate 490942.49N, 593218.49E flowing Southeast to 499050.54N, 590515.81E (delivering surface water to Faka Union Bay) see Figure 1-3 ~~2~~); and

5. The surface water flows depicted on Figures 1-11.A, B, and C ~~10. A, B and C~~ simulated at 'Fakahatchee@41' transect (beginning at coordinate 498623.81N, 587955.37E Southeast to 533587.95N, 575807.53E (delivering surface water to Fakahatchee Bay) see Figure 1-3 ~~2~~).

(b) Groundwater: All groundwater in the water table and unconfined portions of Lower Tamiami aquifer underlying the Fakahatchee Estuary is reserved from allocation.

Notwithstanding the above, presently existing legal uses for the duration of the permit existing on July 2, 2009 are determined to be not contrary to the public interest, pursuant to Section 373.223(4), F.S.

~~(3)~~Reservations contained in Sections 1 and 2 above shall be reviewed in light of changed conditions or new information by December 31, 2014.

Rulemaking Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.016, 373.026, 373.036, 373.1501, 373.1502, 373.219, 373.223, 373.4592, 373.4595, 373.470 FS. History–New 7-2-09, Amended 3-18-10, _____.

40E-10.051 Water Reservation Areas: Upper East Coast Planning Area.

North Fork of the St. Lucie River, as defined in subsection 40E-10.021(3), F.A.C.:

~~(1)~~ Surface waters up to and including the mean monthly flow of 130 cubic feet per second flowing over the Gordy Road Structure from November 1st through May 31st; see Appendix 2 ~~3,~~ Figure 2-2 ~~3-2~~; are reserved from allocation. The water reserved under this Rule will be available for fish and wildlife upon formal determination of the Governing Board, pursuant to state and federal law, that any one or all of the Comprehensive Everglades Restoration Plan's C-23/C-24 North and South Reservoirs and STA Project are operational.

~~(2)~~ Reservations contained in this Rule and the criteria contained in section 3.11.2 of the "Basis of Review for Water Use Permit Applications within the South Florida Water Management District," incorporated by reference in Rule 40E-2.091, F.A.C., shall be revised pursuant to Section 373.223(4), F.S., in light of changed conditions or new information and concurrent with the approval specified in subsection (1), above.

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Notwithstanding the above, presently existing legal uses for the duration of a permit existing on March 18, 2010 are determined to be not contrary to the public interest pursuant to Section 373.223(4), F.S.

Rulemaking Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.016, 373.026, 373.036, 373.1501, 373.1502, 373.219, 373.223, 373.4592, 373.4595, 373.470 FS. History–New-3-18-10, _____.

40E-10.061 Water Reservation Areas: Lower East Coast Planning Area

(1) Nearshore Central Biscayne Bay as defined in subsection 40E-10.021(6), F.A.C.: All surface water contained within Nearshore Central Biscayne Bay is reserved from allocation (see Figure 3-1).

(2) Surface water flowing into Nearshore Central Biscayne Bay as identified below is reserved from allocation:

(a) Surface water flows depicted on Figures 3-2.A and 3-2.B through S-123 derived from the following contributing canal reaches:

1. The C-100A canal upstream of S-123 to S-120 including all integrated conveyance canals.
2. The C-100C canal upstream of S-123 to S-119 including all integrated conveyance canals.
3. The C-100B canal upstream of S-123 to S-122 including all integrated conveyance canals.
4. The C-100 canal upstream of S-123 to S-118 including all integrated conveyance canals.

(b) Surface water flows depicted on Figures 3-3.A and 3-3.B through S-21 derived from the following contributing canal reaches:

1. The L-31E borrow canal upstream of S-21 to the canal terminus.
2. The C-1 canal upstream of S-21 to S-122 and S-149 including all integrated conveyance canals.
3. The C-1 canal upstream of S-21 to the C-1W canal and S-338 including all integrated conveyance canals.

(c) Surface water flows depicted on Figures 3-4.A and 3-4.B which is the combined flow through S-21A, S-20G, and S-20F as derived from the following contributing canal reaches:

1. The C-102 canal connecting to the C-102 N canal upstream of S-21A to S-195.
2. The C-102 canal upstream of S-21A to S-165
3. The L-31E borrow canal upstream of S-21A to its terminus near S-21 including the Gould's Canal.
4. The L-31E borrow canal upstream of S-21A south to S-20G.
5. The Military canal upstream of S-20G.
6. The C-103 canal upstream of S-20F to S-179.
7. The L-31E borrow canal upstream of S-20F to S-20G including all integrated conveyance canals.
8. The L-31E borrow canal from S-20F south to the North Canal.
9. The North Canal.
10. The L-31E borrow canal from S-20F south to the Florida City Canal.
11. The Florida City Canal from Southwest 107th Avenue to its confluence with the L-31E borrow canal.

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Notwithstanding the above, presently existing legal uses for the duration of a permit existing on _____ are determined to be not contrary to the public interest pursuant to Section 373.223(4), F.S.
Reservations contained in the section shall be reviewed in light of changed conditions or new information.

Rulemaking Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.016, 373.026, 373.036, 373.1501, 373.1502, 373.219, 373.223, 373.4592, 373.4595, 373.470 FS. History–New _____.

APPENDIX 1 LOWER WEST COAST PLANNING AREA
~~TO CHAPTER 40E-10~~

1-1 LEGAL DESCRIPTION OF PICAYUNE STRAND AS DEFINED IN SUBSECTION 40E-10.021(1):

A tract of land in Townships 50, 51 and 52 South, Ranges 27 and 28 East, Collier County, Florida, more particularly described as follows:
Beginning at the Southeast Corner of Section 25, Township 51 South, Range 28 East, Collier County, Florida, run S 89°10'50" W, 2659.84 feet to the South Quarter Corner of said Section 25; thence S 89°09'41" W, 2659.37 feet to the Southwest Corner of said Section 25; thence S 00°19'11" W, 2611.61 feet to the East Quarter Corner of Section 35 of said Township 51 South, Range 28 East;
thence S 88°56'33" W, 2652.73 feet to the Northeast Corner of the Southwest Quarter of said Section 35; thence S 00°18'15" W, 2614.86 feet to the South Quarter Corner of said Section 35; thence S 88°54'23" W, 2650.59 feet to the Southwest Corner of Section 35; thence S 88°50'39" W, 2639.94 feet to the South Quarter Corner of Section 34 of said Township 51 South, Range 28 East;
thence S 89°00'23" W, 2652.66 feet to the Southwest Corner of said Section 34;
thence S 88°44'21" W along the north line of the Northeast Quarter of Section 4, Township 52 South, Range 28 East, 1450.32 feet to the Northeast Corner of those lands described in Official Record Book 2624, Page 2509, Public Records of Collier County, Florida; thence S 00°27'37" E along the east line of said lands, 6308.01 feet; thence continuing along said east line, S 89°34'56" W, 16.37 feet;
thence continuing along said east line, S 00°25'04" E, 360.00 feet to the north right-of-way line of U.S. Highway 41; thence westerly along the north right-of-way line of U.S. Highway 41, S 84°52'54" W, 327.99 feet; thence N 05°07'06" W, 39.00 feet to a point on a non-tangent curve; thence westerly 900.69 feet along the arc of said curve, concave to the northeast, having a radius of 1835.08 feet, a central angle of 28°07'18" and a chord of 891.68 feet, bearing N 81°03'27" W;
thence S 23°00'12" W, 39.00 feet; thence N 66°59'48" W, 5570.19 feet to a point of curvature; thence northwesterly 800.00 feet along the arc of a curve, concave to the southwest, having a radius of 17224.80 feet, a central angle of 02°39'40" and a chord of 799.93 feet, bearing N 68°19'38" W to a point of tangency;
thence N 69°39'28" W, 6844.52 feet; thence N 20°20'32" E, 39.00 feet to a point on a non-tangent curve; thence northwesterly 671.08 feet along the arc of said curve, concave to the northeast, having a radius of 1835.08 feet, a central angle of 20°57'10" and a chord of 667.35 feet, bearing N 59°10'53" W; thence S 41°17'43" W, 39.00 feet; thence N 48°42'17" W, 6815.31 feet to a point of curvature; thence northwesterly 442.16 feet along the arc of a curve, concave to

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the southwest, having a radius of 725.20 feet, a central angle of 34°56'02" and a chord of 435.35 feet, bearing N 66°10'19" W to a point of tangency; thence N 83°38'20" W, 300.77 feet to the intersection of the north right-of-way line of U.S. Highway 41 with the west line of Section 36, Township 51 South, Range 27 East;
thence N 00°03'59" E along the west line of said Section 36, 1586.32 feet to the Northwest Corner of Section 36; thence N 01°15'40" W, 2658.40 feet, to the West Quarter Corner of Section 25 of said Township 51 South, Range 27 East;
thence N 01°17'06" W, 2656.42 feet to the Northwest Corner of said Section 25;
thence N 01°16'05" W, 2655.83 feet to the West Quarter Corner of Section 24 of said Township 51 South, Range 27 East; thence N 01°16'15" W, 2656.76 feet to the Northwest Corner of said Section 24; thence N 00°19'01" E, 2764.38 feet to the West Quarter Corner of Section 13 of said Township 51 South, Range 27 East; thence N 00°19'04" E, 2764.32 feet to the Northwest Corner of said Section 13; thence N 01°15'53" E, 2764.69 feet to the West Quarter Corner of Section 12 of said Township 51 South, Range 27 East; thence N 01°16'08" E, 2764.72 feet to the Northwest Corner of said Section 12; thence N 00°37'07" E, 2763.78 feet to the West Quarter Corner of Section 1 of said Township 51 South, Range 27 East; thence N 00°35'09" E, 2732.08 feet to the Northwest Corner of said Section 1; thence N 01°09'58" E, 2697.35 feet to the West Quarter Corner of Section 36 of Township 50 South, Range 27 East; thence N 01°14’25" E, 2554.73 feet to the Northwest Corner of said Section 36; thence N 00°49'11" E, 2618.76 feet to the West Quarter Corner of Section 25 of said Township 50 South, Range 27 East;
thence N 01°30'13" E, 2623.02 feet to the Northwest Corner of said Section 25;
thence N 01°14'51" E, 2643.78 feet to the West Quarter Corner of Section 24 of said Township 50 South, Range 27 East; thence N 00°55’45" E, 2647.27 feet to the Northwest Corner of said Section 24; thence N 89°04’28" W, 2655.08 feet to the South Quarter Corner of Section 14 of said Township 50 South, Range 27 East; thence N 89°06’09" W, 2673.56 feet to the Southwest Corner of said Section 14; thence N 01°20’52" E, 2642.45 feet to the West Quarter Corner of said Section 14; thence N 01°02'27" E, 2638.34 feet to the Northwest Corner of said Section 14; thence S 88°57’18” E, 2650.45 feet to the North Quarter Corner of said Section 14; thence S 89°16’05” E, 2679.46 feet to the Northeast Corner of said Section 14; thence N 00°32'07" E, 2629.53 feet to the West Quarter Corner of Section 12 of said Township 50 South, Range 27 East; thence N 00°05'55" E, 2655.64 feet to the Northwest Corner of said Section 12; thence N 00°35'20" E, 2638.33 feet to the West Quarter Corner of Section 1 of said Township 50 South, Range 27 East; thence N 09°11'51" W along the west line of the Northwest Quarter of said Section 1 a distance of 2352.20 feet to the intersection with the south line of the south drainage right-of-way of Interstate 75; thence easterly along said line, N 89°40’16” E, 2640.00 feet; thence S 88°14'35" E, 2676.02 feet;
thence S 89°13'04" E, 2656.26 feet; thence N 89°51'50" E, 2650.84 feet;
thence N 89°28’53" E, 2647.15 feet; thence S 89°53’38" E, 2654.08 feet;
thence S 89°59'57" E, 2650.10 feet; thence N 89°51'03" E, 2650.97 feet;
thence S 89°32'18" E, 2648.17 feet; thence N 89°47'26" E, 2686.92 feet;
thence N 00°23'28" W, 124.56 feet; thence S 89°54'09" E, 2649.59 feet;
thence S 89°56'18" E, 2651.63 feet; thence N 89°41'16" E, 2652.50 feet;
thence S 89°49'15" E, 2651.54 feet to the intersection of the south line of said south drainage right-of-way with the east line of Section 1, Township 50 South, Range 28 East; thence S 00°18'22" E along the east line of the Northeast Quarter of said Section 1 a distance of 2460.78 feet to the East Quarter Corner of said Section 1; thence S 00°18'26" E, 2663.16 feet to the

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Southeast Corner of said Section 1; thence S 00°19'17" E, 2661.71 feet to the East Quarter Corner of Section 12 of said Township 50 South, Range 28 East; thence S 00°18'47" E, 2661.88 feet to the Southeast Corner of said Section 12; thence S 00°18'10" E, 2662.06 feet to the East Quarter Corner of Section 13 of said Township 50 South, Range 28 East; thence S 00°18'16" E, 2662.13 feet to the Southeast Corner of said Section 13; thence S 00°18'16" E, 2662.14 feet to the East Quarter Corner of Section 24 of said Township 50 South, Range 28 East; thence S 00°17'28" E, 2661.81 feet to the Southeast Corner of said Section 24; thence S 00°17'38" E, 2674.16 feet to the East Quarter Corner of Section 25 of said Township 50 South, Range 28 East; thence S 00°10'00" E, 2674.56 feet to the Southeast Corner of said Section 25; thence S 00°13'47" E, 2674.47 feet to the East Quarter Corner of Section 36 of said Township 50 South, Range 28 East; thence S 00°13'47" E, 2674.49 feet to the Southeast Corner of said Section 36; thence S 00°51'18" E, 2682.32 feet to the East Quarter Corner of Section 1 of Township 51 South, Range 28 East; thence S 00°51'18" E, 2682.32 feet to the Southeast Corner of said Section 1; thence S 00°28'26” W, 2596.09 feet to the East Quarter Corner of Section 12 of said Township 51 South, Range 28 East; thence S 00°41'47" W, 2598.68 feet to the Southeast Corner of said Section 12; thence southerly along the east line of Section 13, Township 51 South, Range 28 East, S 00°35'55" W, 5191.01 feet to the Southeast Corner of said Section 13; thence S 00°36'41" W, 2596.95 feet to the East Quarter Corner of Section 24 of said Township 51 South, Range 28 East; thence S 00°34'08" W, 2597.43 feet to the Southeast Corner of said Section 24; thence S 00°33'57" W, 2596.90 feet to the East Quarter Corner of Section 25 of said Township 51 South, Range 28 East; thence S 00°34'27" W, 2597.76 feet to the Southeast Corner of said Section 25 and the Point of Beginning.

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(Formerly Figure 1)

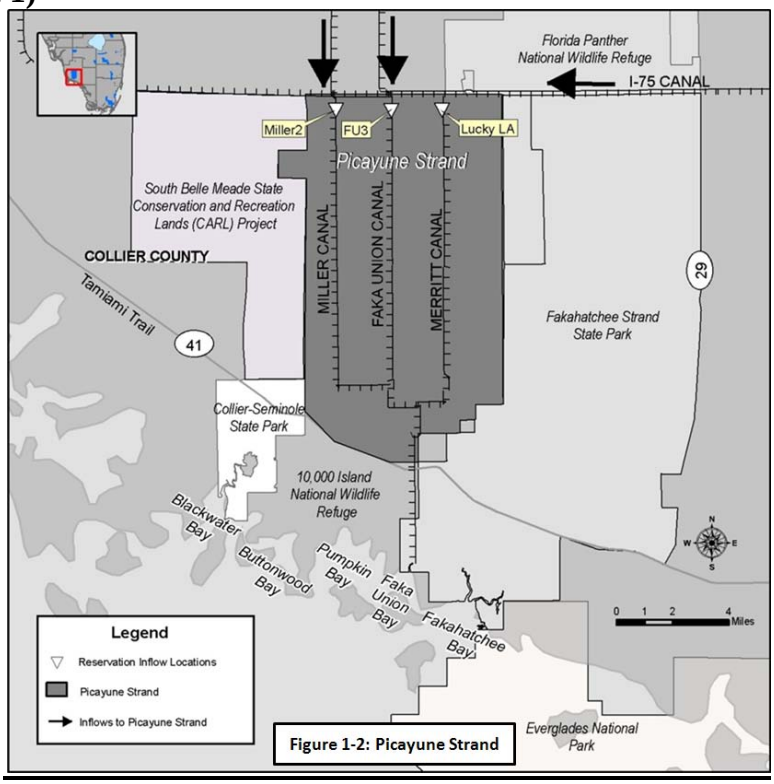

Figure 1-2: Picayune Strand

(Formerly Figure 2)

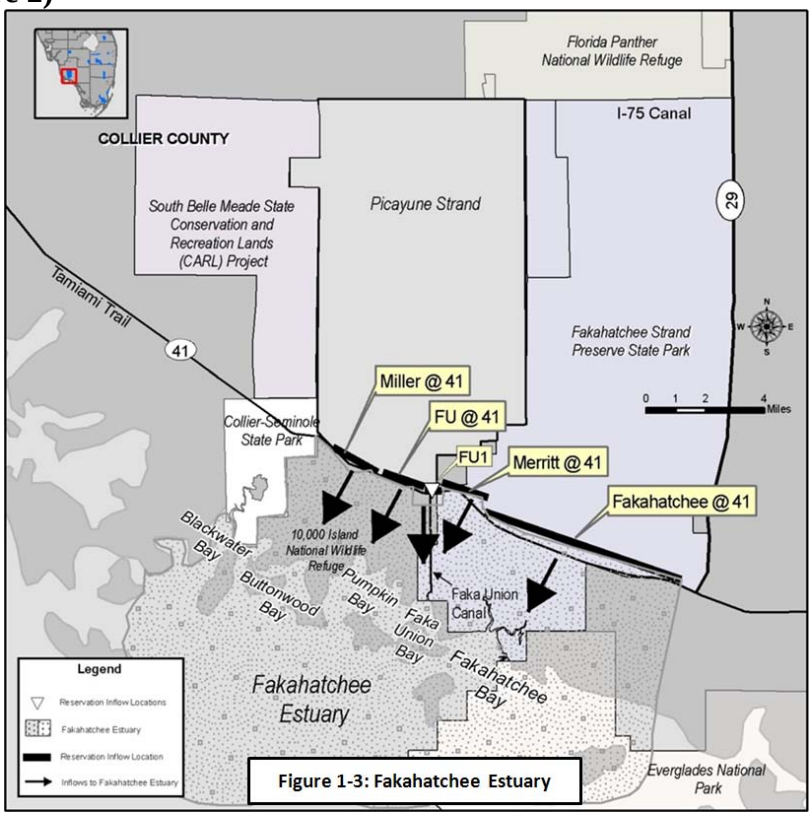

Figure 1-3: Fakahatchee Estuary

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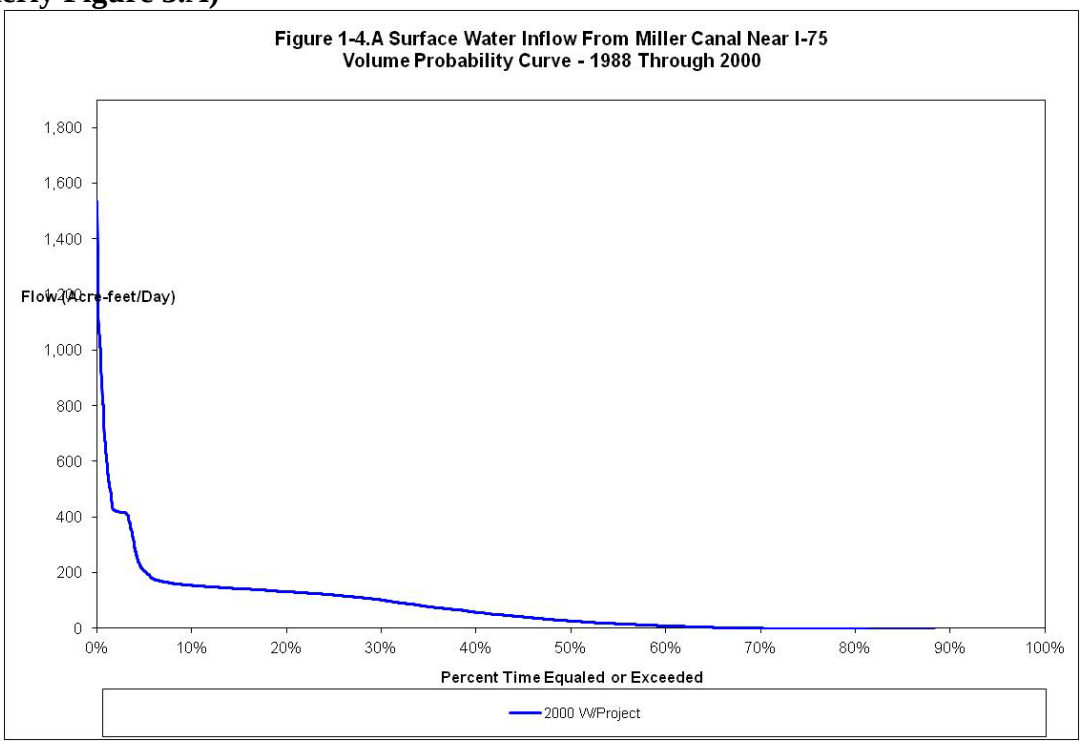
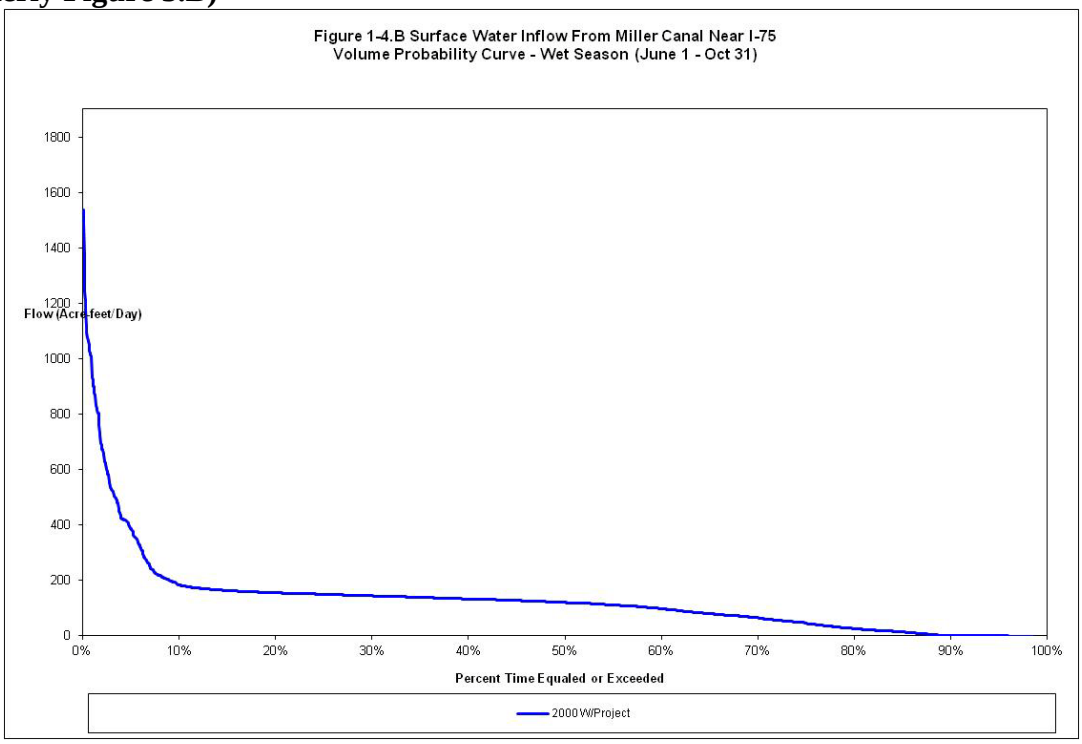
(Formerly Figure 3.A)



(Formerly Figure 3.B)



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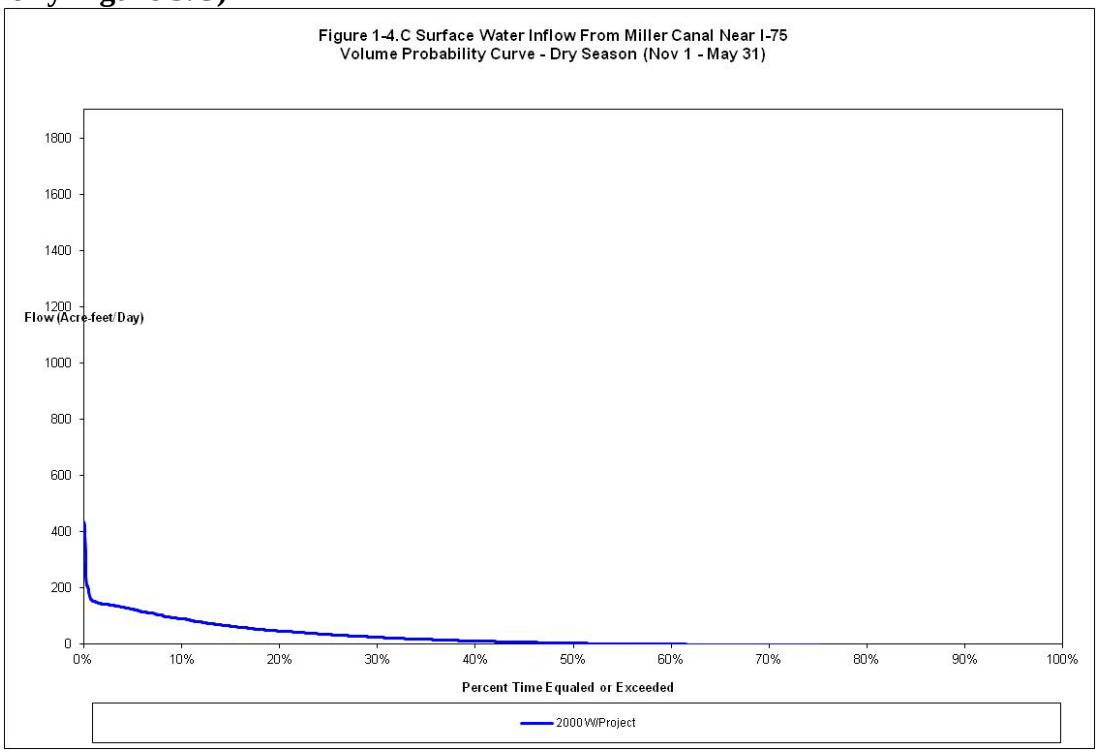
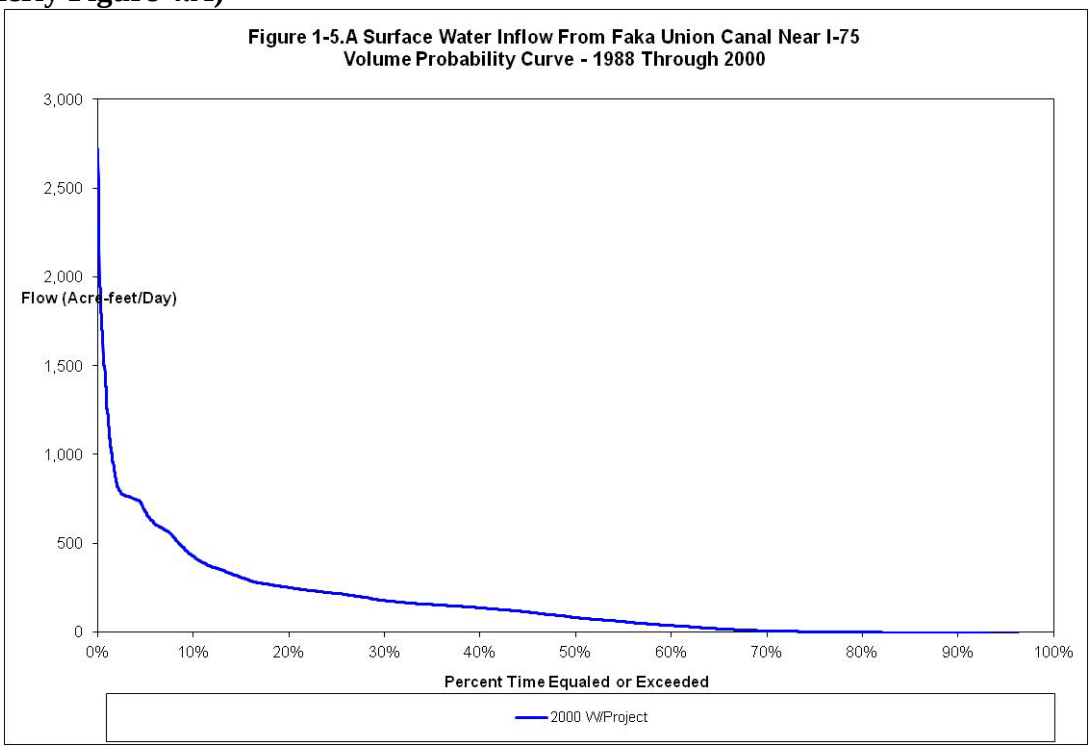
(Formerly Figure 3.C)



(Formerly Figure 4.A)



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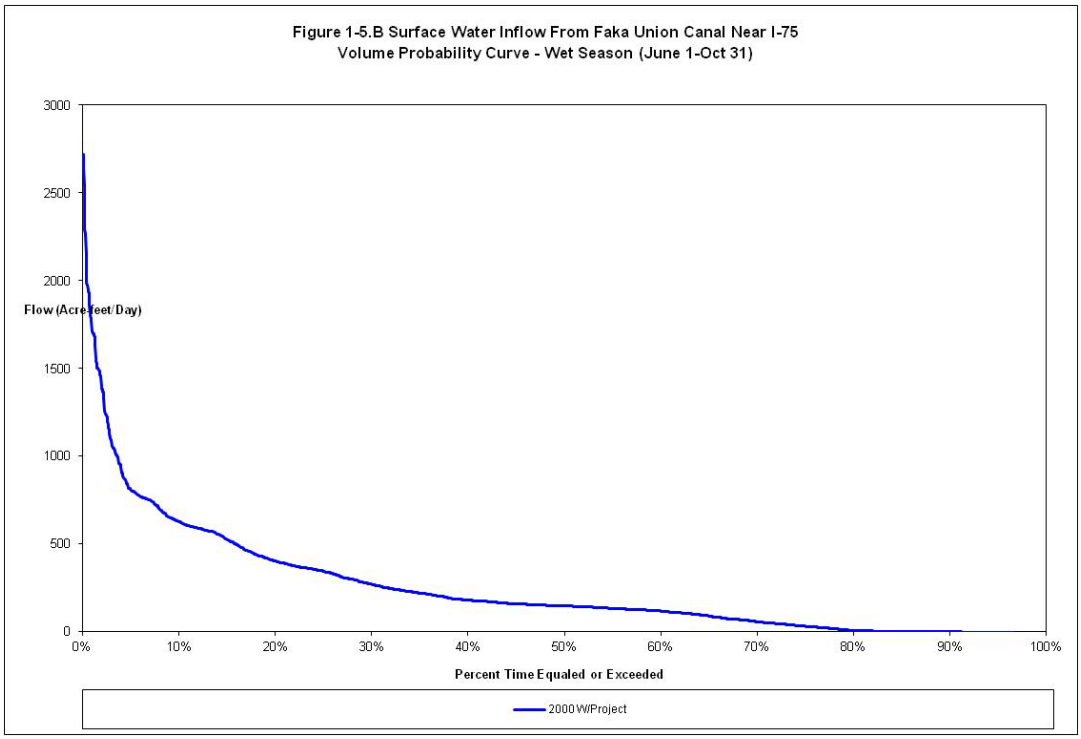
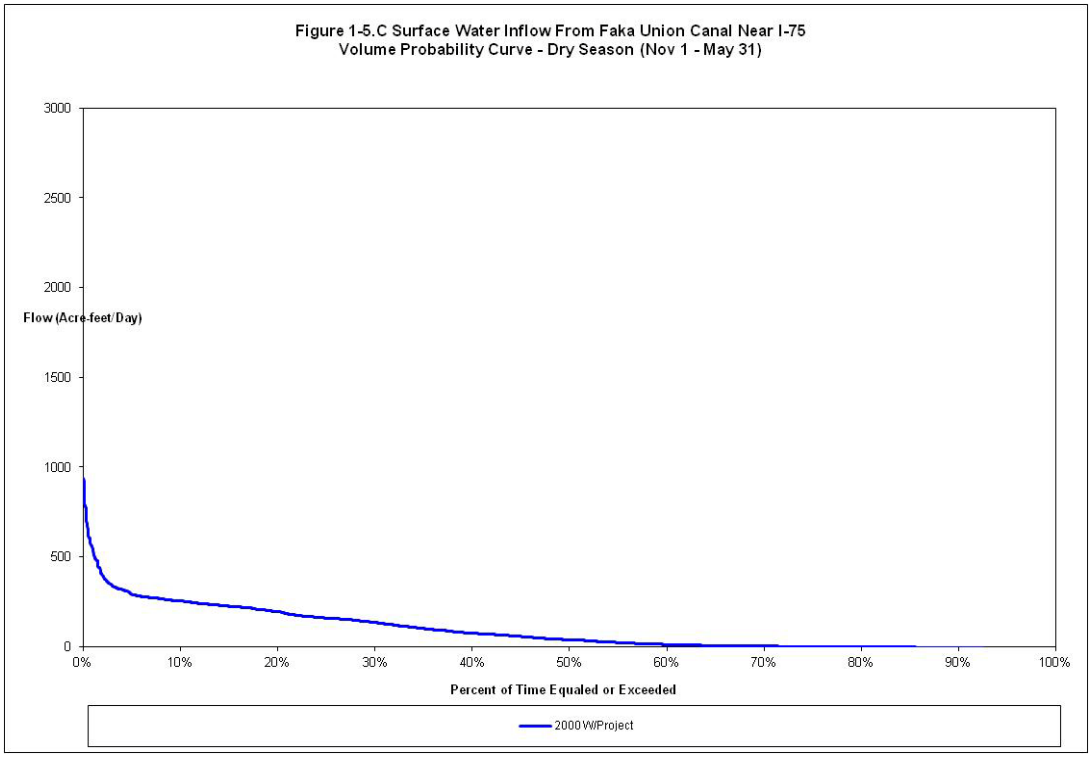
(Formerly Figure 4.B)



(Formerly Figure 4.C)



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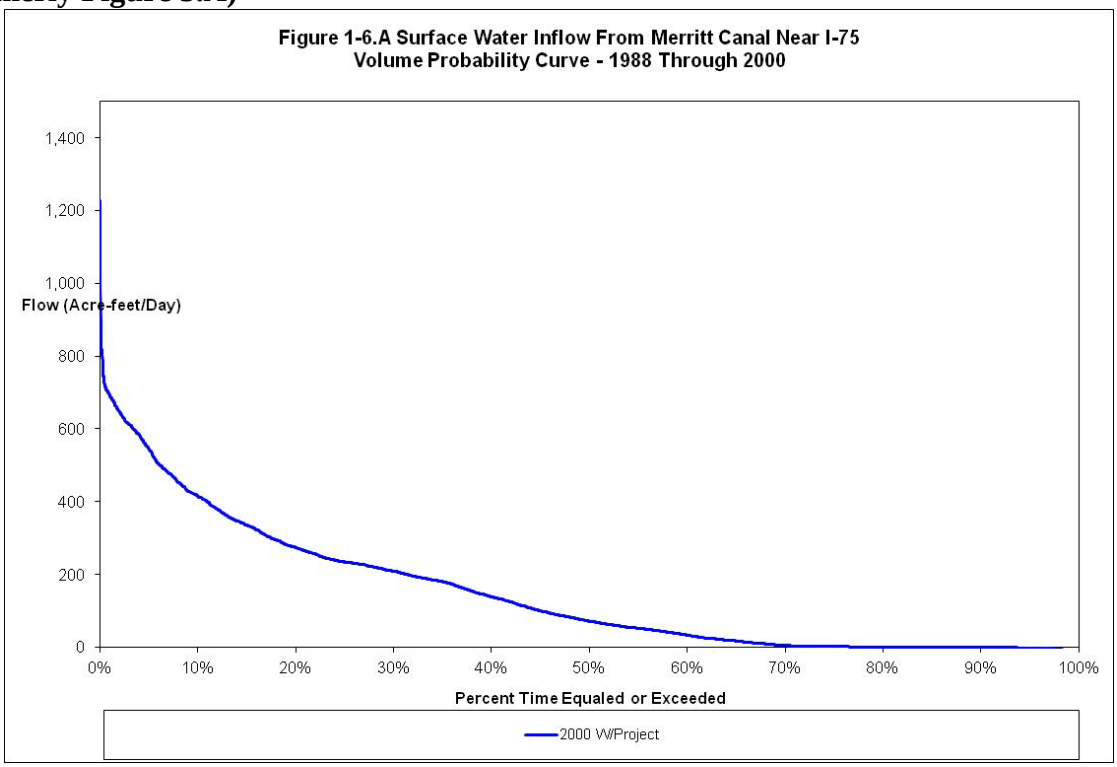
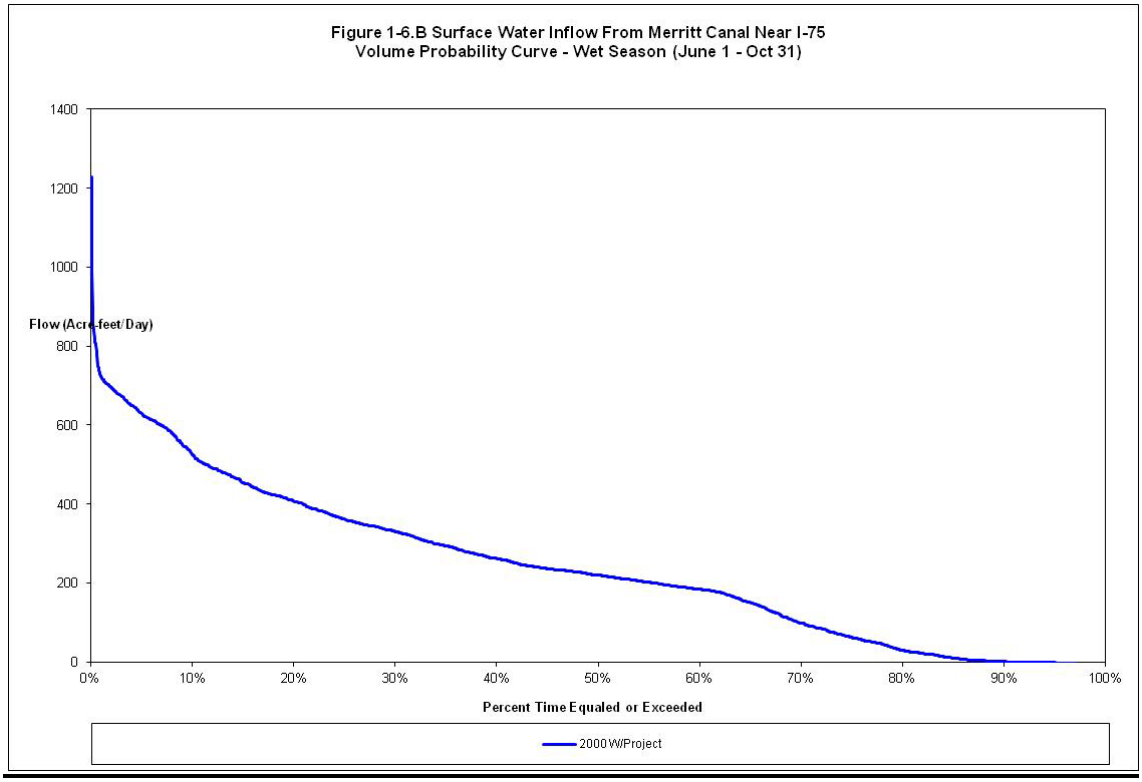
(Formerly Figure 5.A)



(Formerly Figure 5.B)



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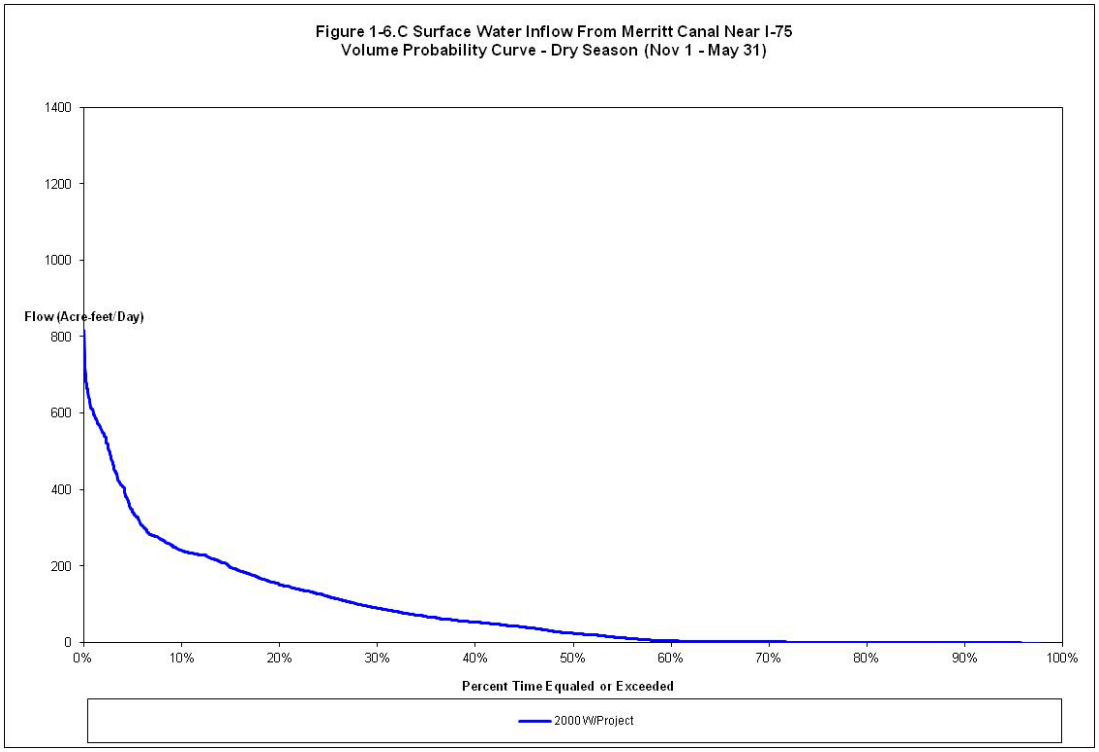
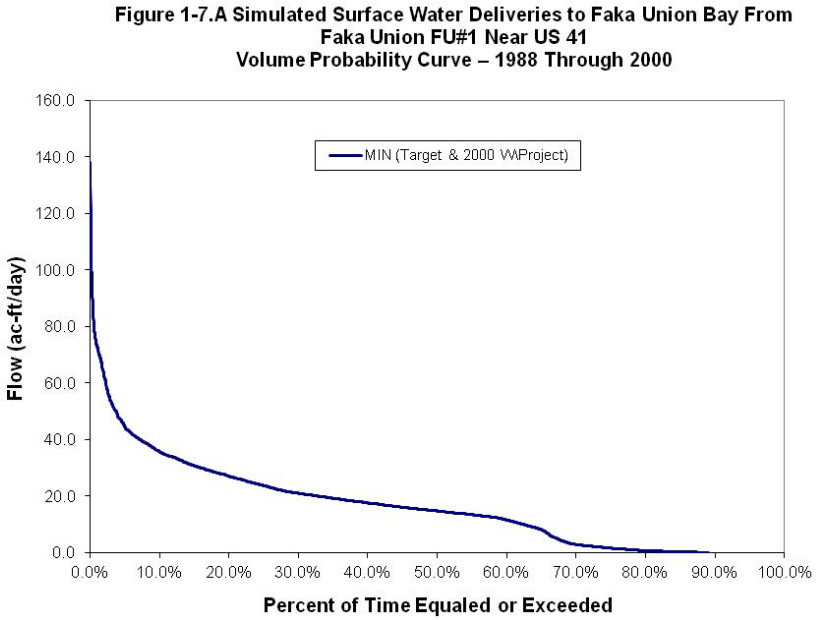
(Formerly Figure 5.C)



(Formerly Figure 6.A)



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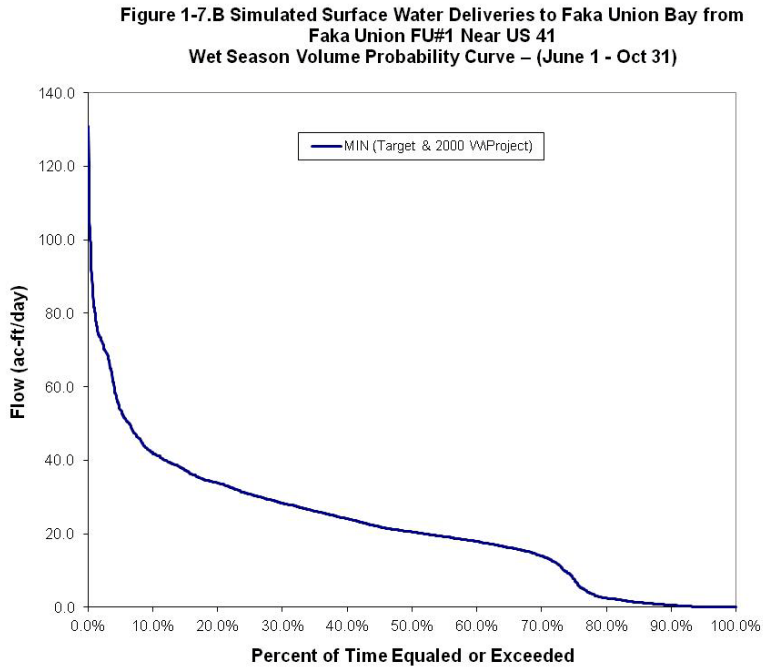
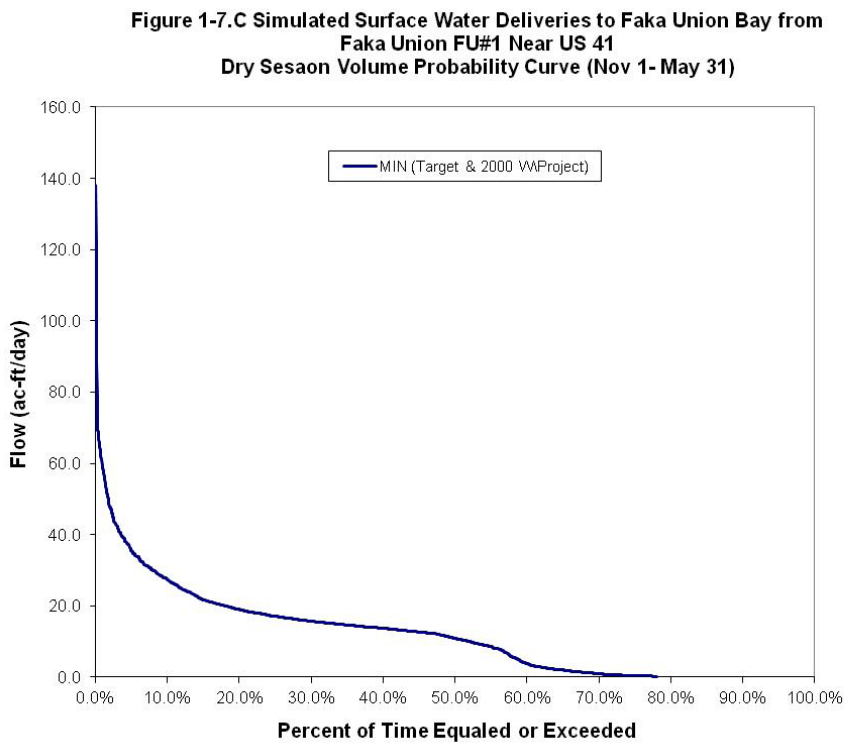
(Formerly Figure 6.B)



(Formerly Figure 6.C)



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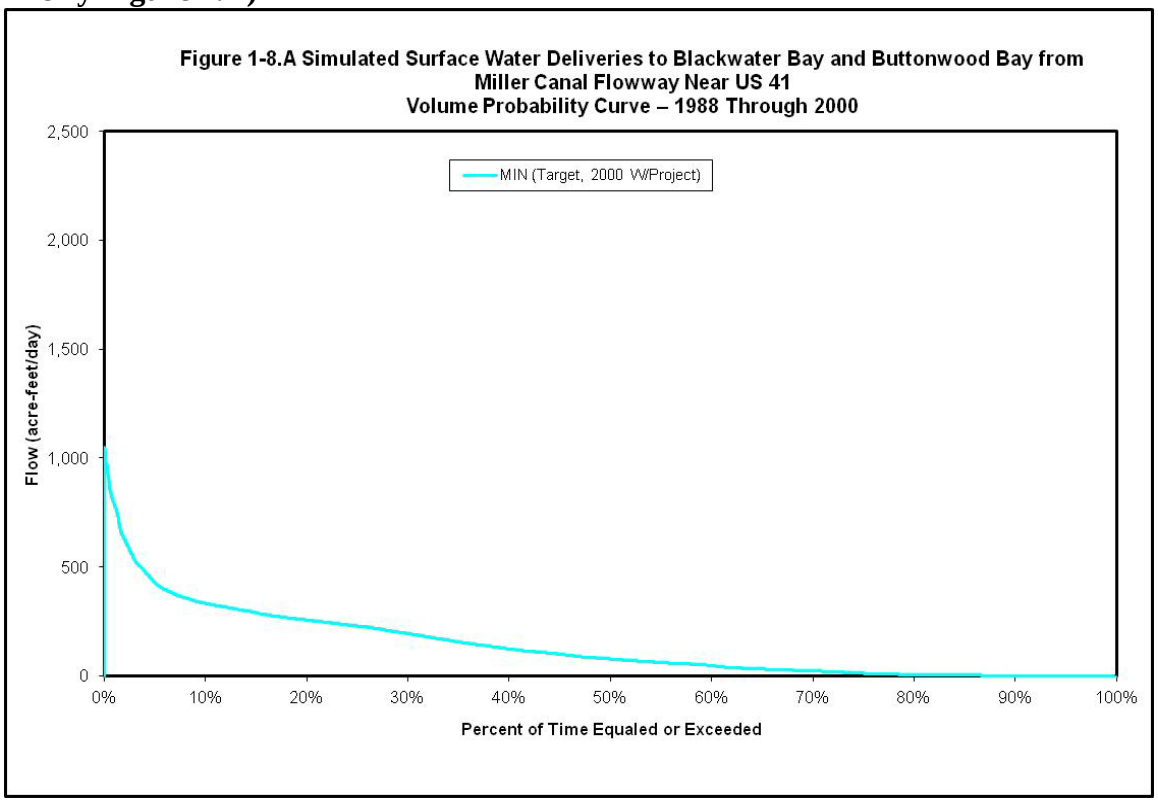
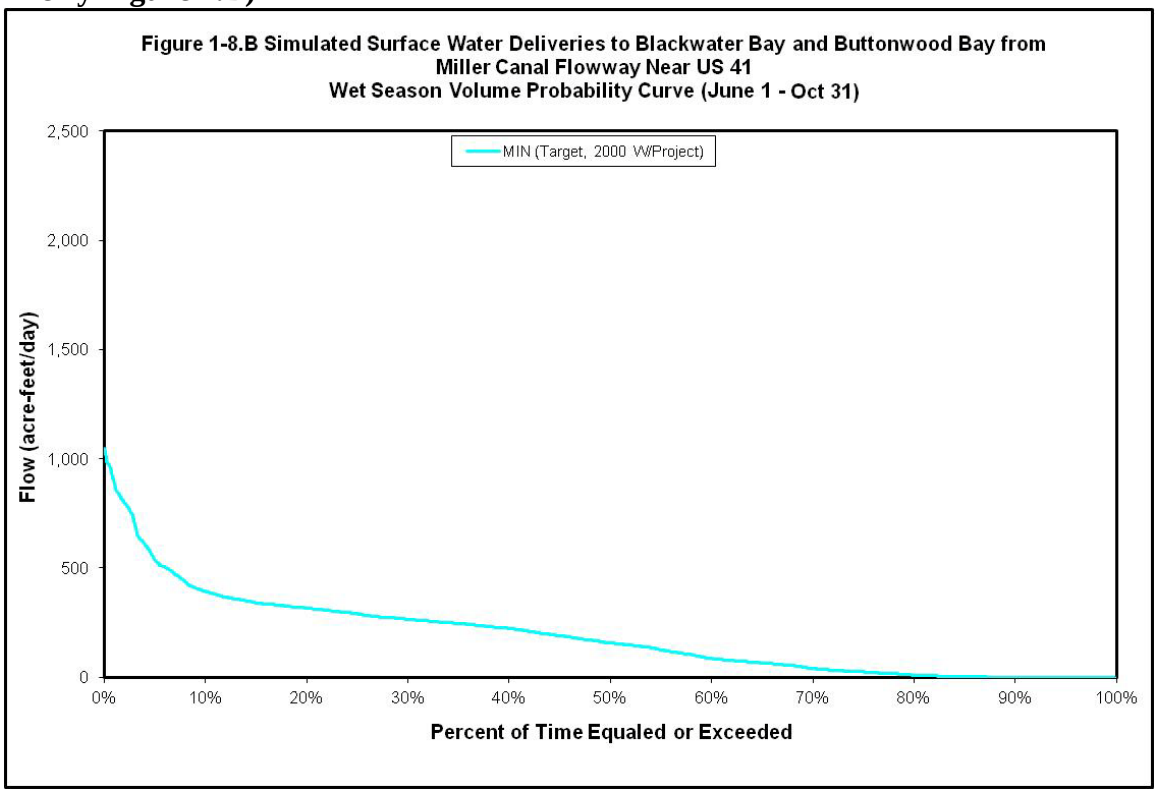
(Formerly Figure 7.A)



(Formerly Figure 7.B)



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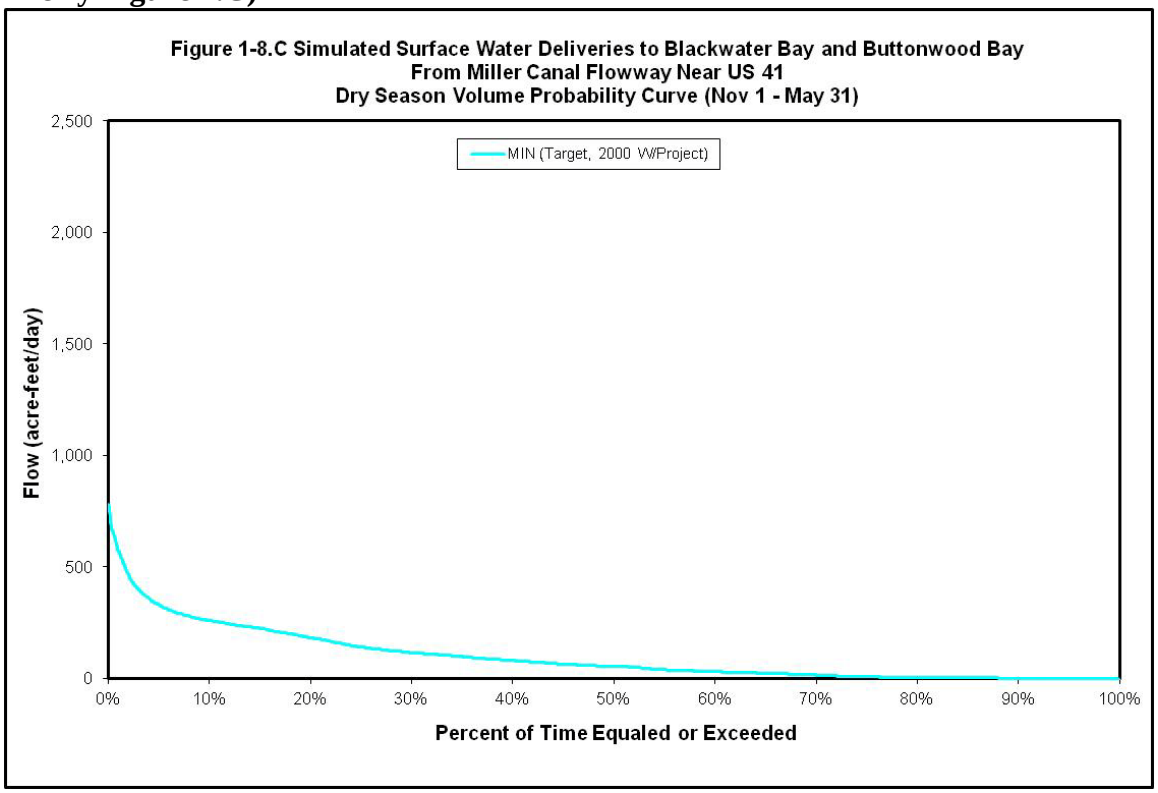
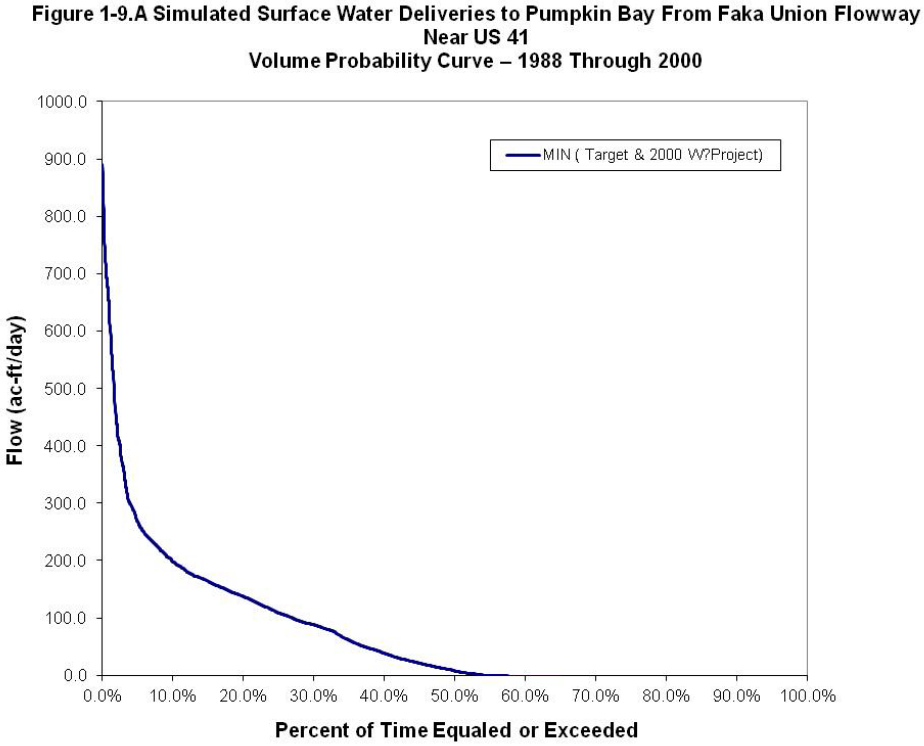
(Formerly Figure 7.C)



(Formerly Figure 8.A)



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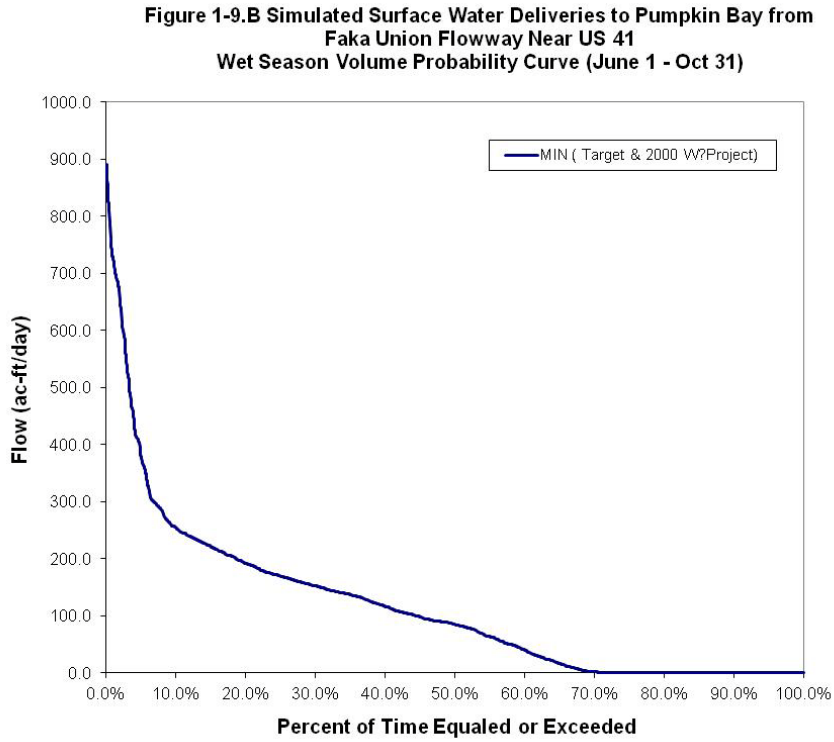
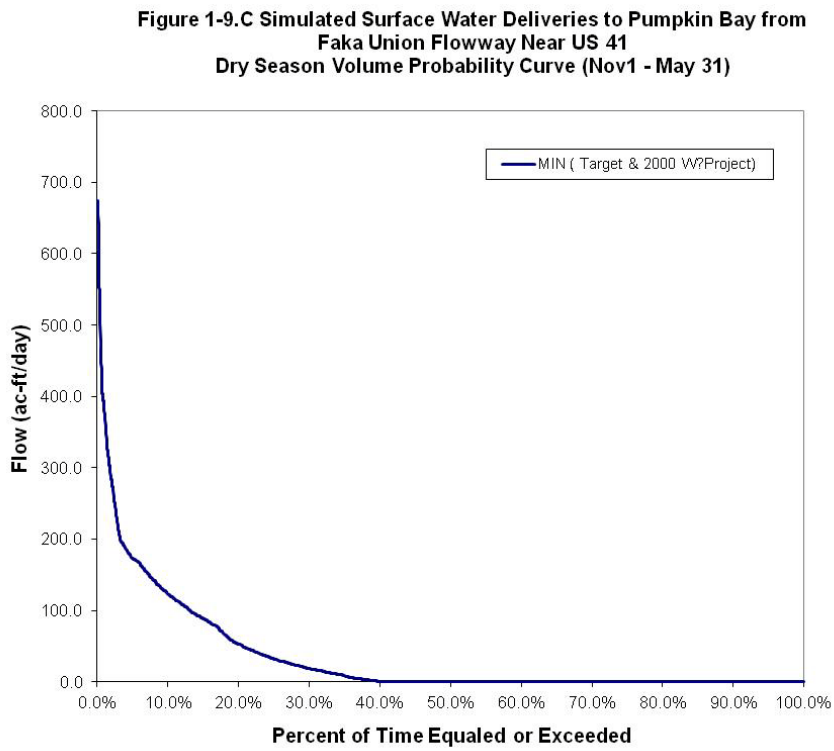
(Formerly Figure 8.B)



(Formerly Figure 8.C)



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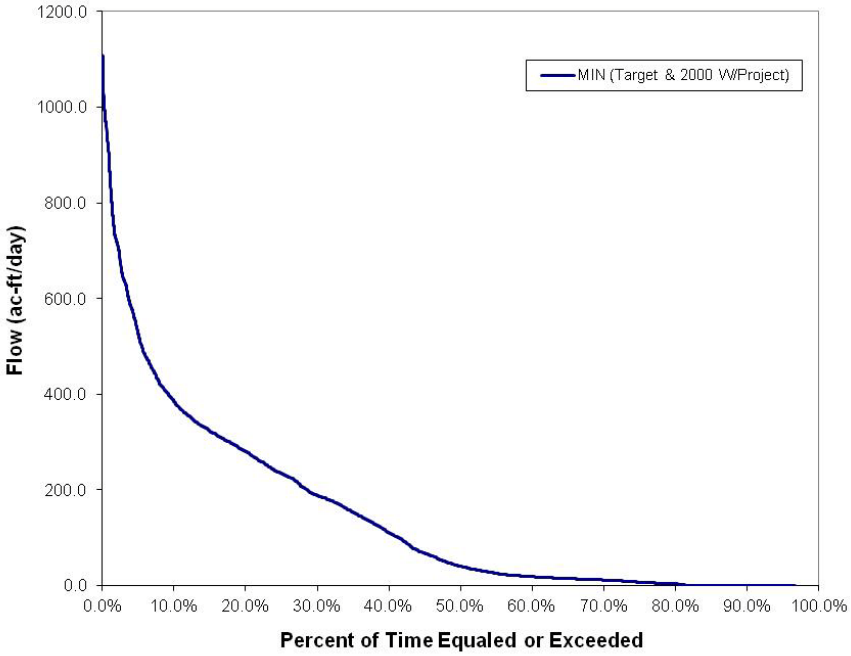
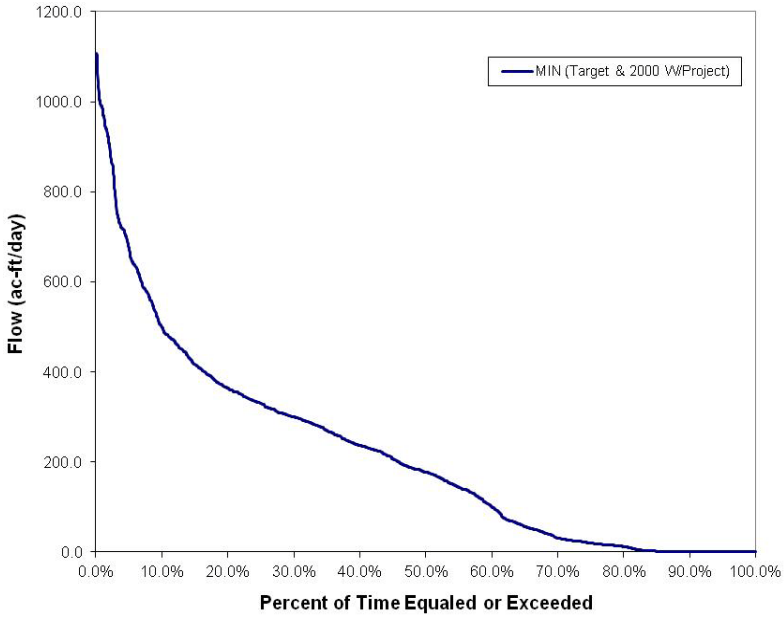
(Formerly Figure 9.A)

Figure 1-10.A Simulated Surface Water Deliveries to Faka Union Bay From Merritt Canal Flowway Near US41 Volume Probability Curve – 1988 Through 2000



(Formerly Figure 9.B)

Figure 1-10.B Simulated Surface Water Deliveries to Faka Union Bay from Merritt Canal Flowway Near US41 Wet Sesaon Volume Probability Curve (June 1- Oct 31)



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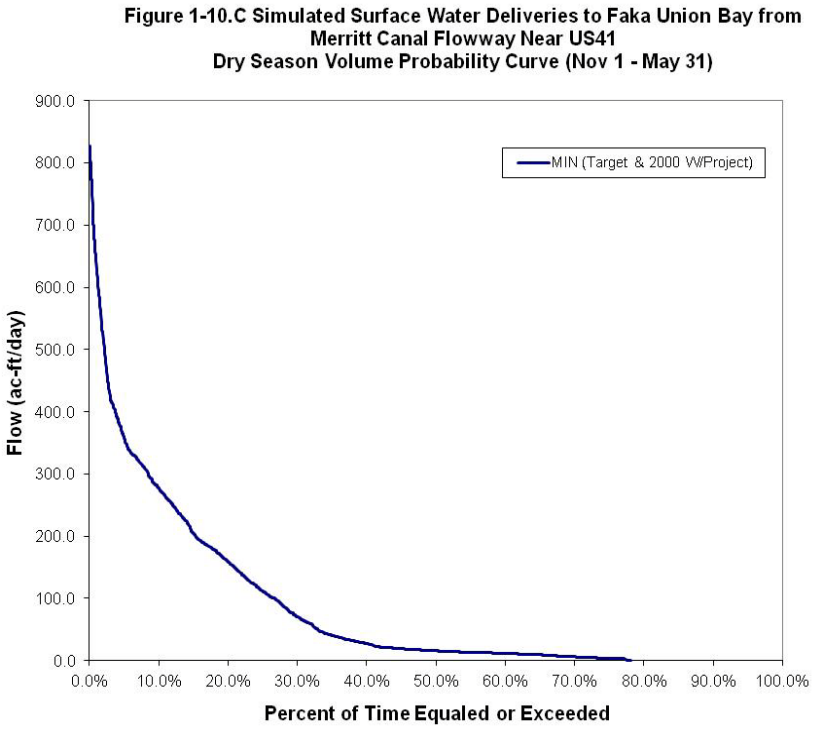
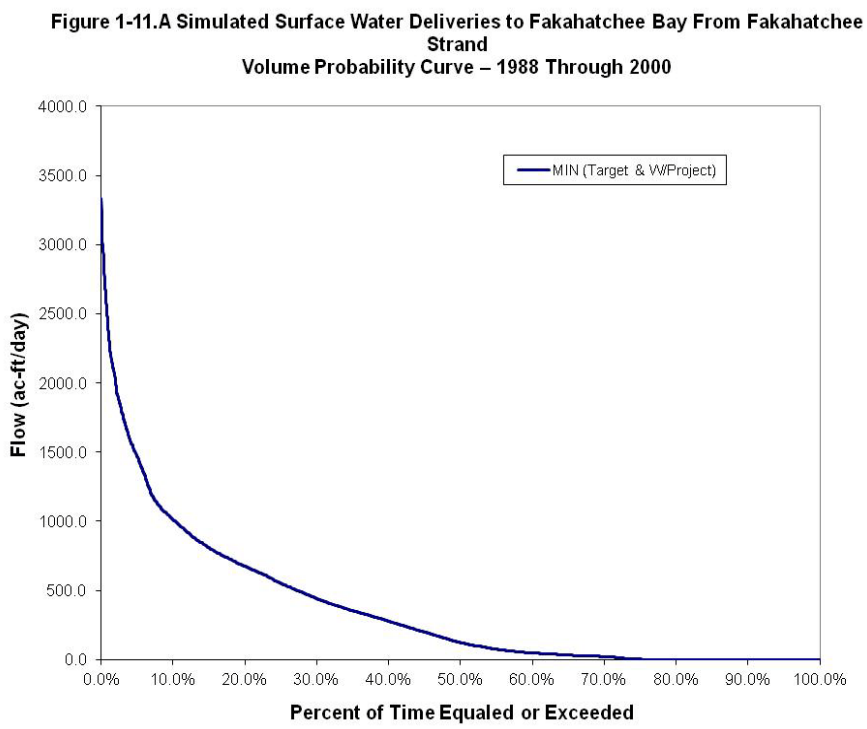
(Formerly Figure 9.C)

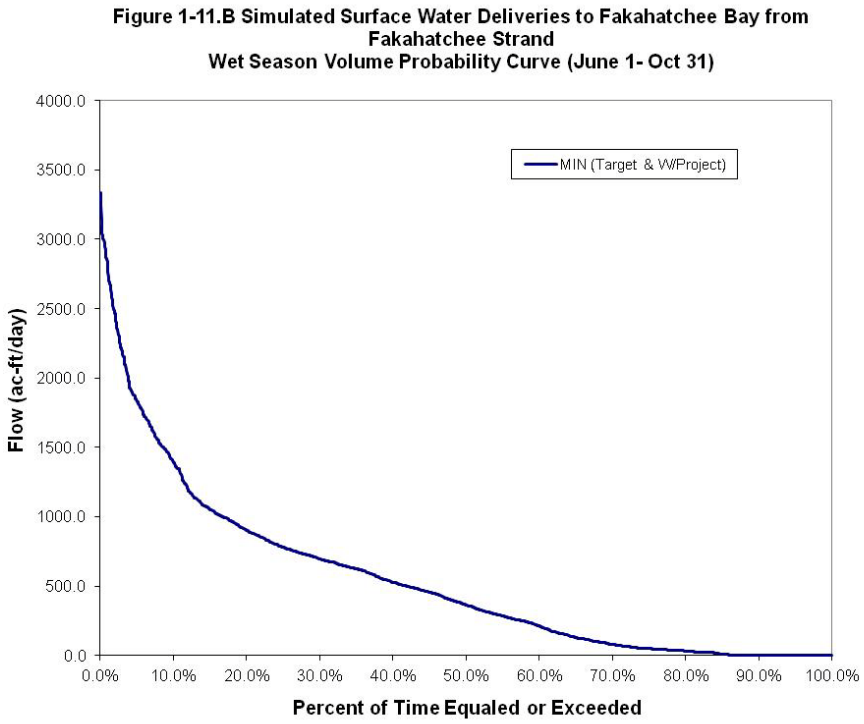


(Formerly Figure 10.A)

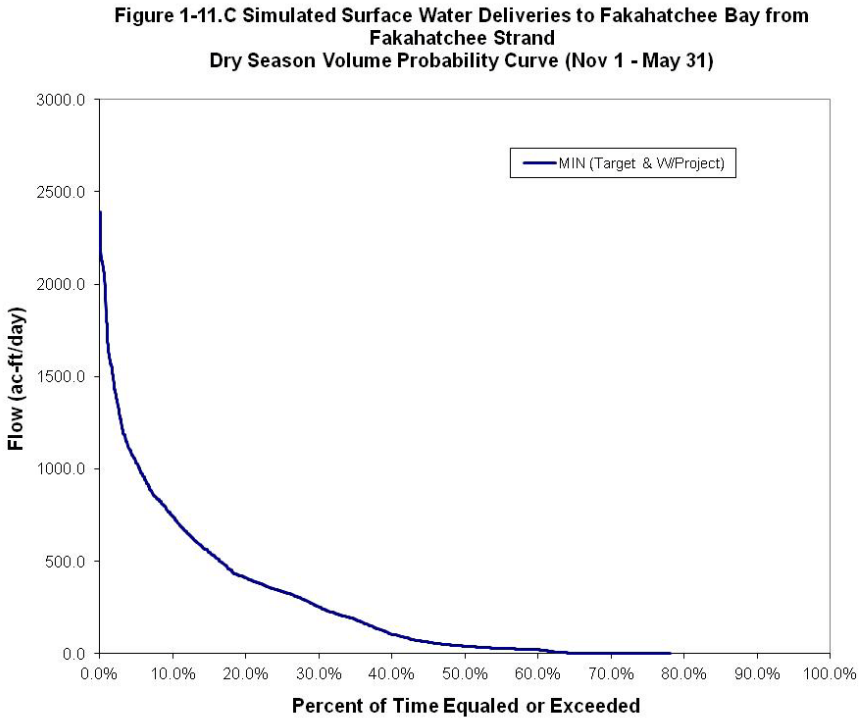


Attachment: Biscayne Bay RuleText_FINAL_2013-05-20 (1309 : Nearshore Central Biscayne Bay Water Reservation Rule Adoption)

(Formerly Figure 10.B)



(Formerly Figure 10.C)



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APPENDIX 2 UPPER EAST COAST PLANNING AREA ~~TO CHAPTER 40E-10~~

2-1 ~~Appendix 3:~~ Upper East Coast Reservation Water Bodies

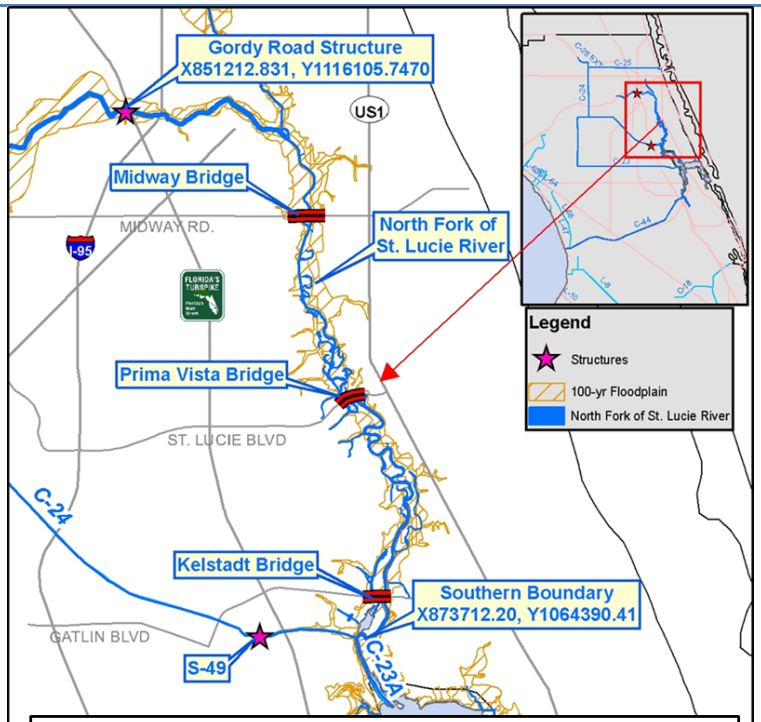
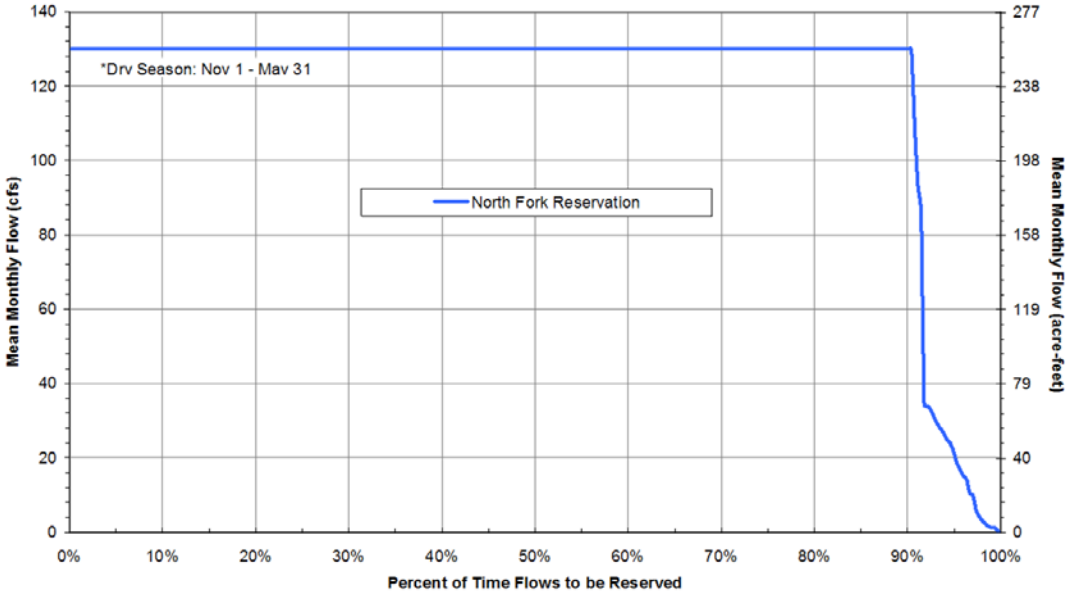


Figure 2-1: North Fork of the St. Lucie River Reservation Waterbody

Figure 2-2: Water Reserved for the North Fork of the St Lucie River

(Formerly Figure 3-2)



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Appendix 3: Lower East Coast Planning Area

Figure 3-1 Nearshore Central Biscayne Bay Reservation Water Body and Protected Canal Reaches

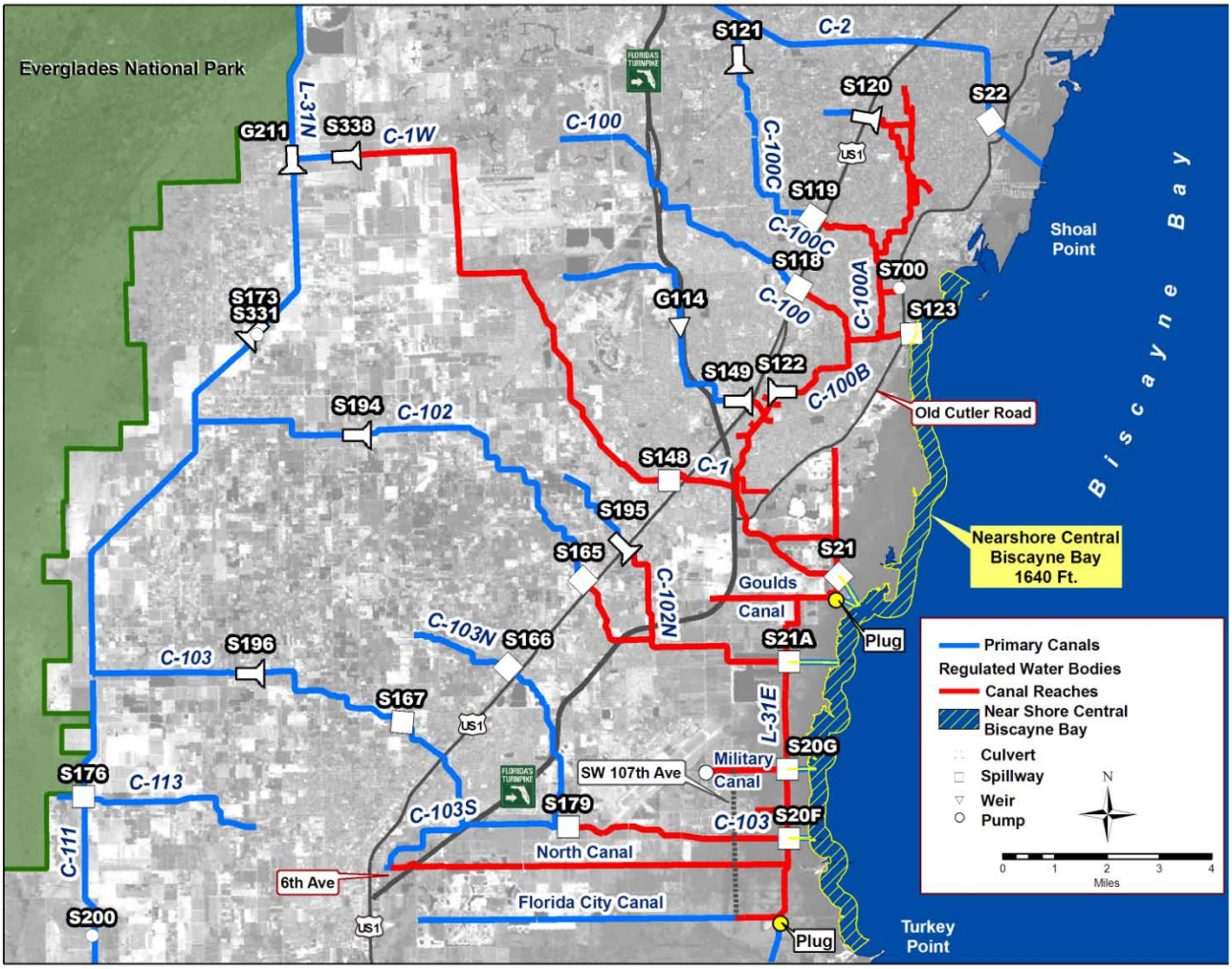

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Figure 3-2.A Surface Water Flow from the C-100 canal through S-123 into Biscayne Bay during the Wet Season (June-October) (1986-2011)

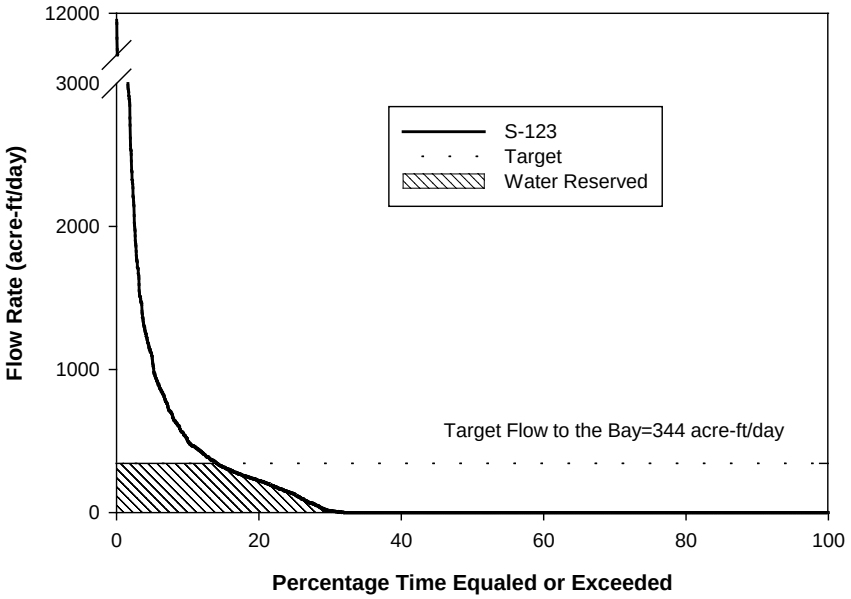

Figure 3-2.B Surface Water Flow from the C-100 canal through S-123 into Biscayne Bay during the Dry Season (November-May) (1986-2011)

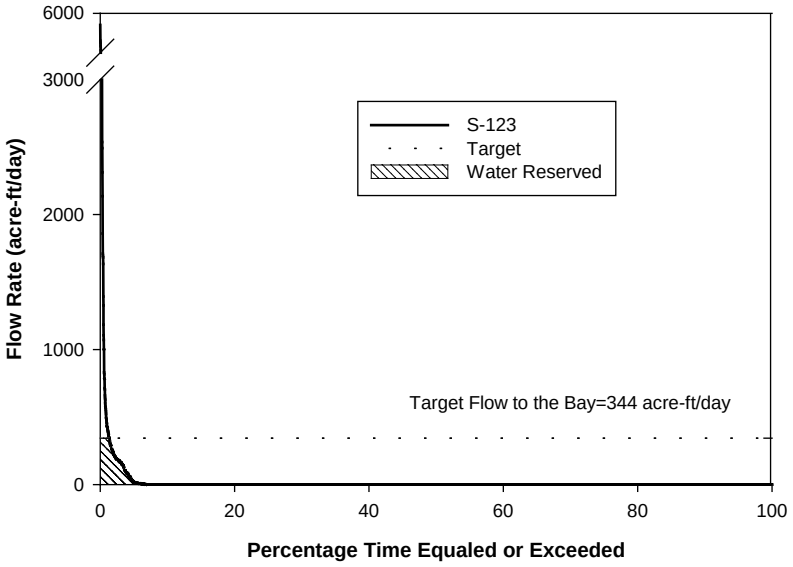

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Figure 3-3.A Surface Water Flow from the C-1 canal through S-21 into Biscayne Bay during the Wet Season (June-October) (1986-2011)

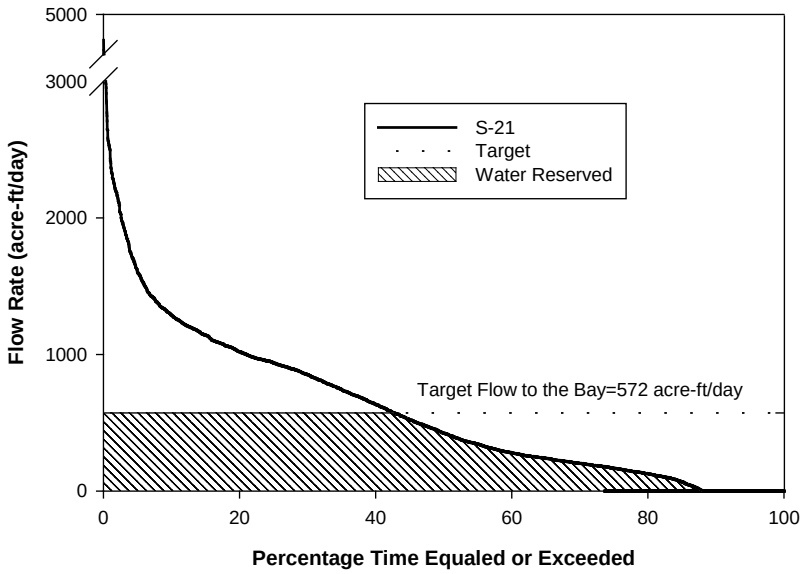

Figure 3-3.B Surface Water Flow from the C-1 canal through S-21 into Biscayne Bay during the Dry Season (November-May) (1986-2011)

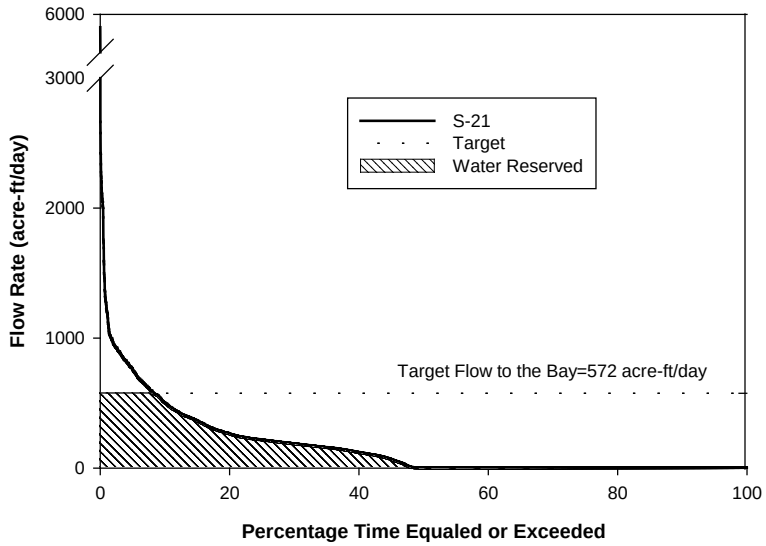

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Figure 3-4.A Surface Water Flow from the C-102+Military+C-103 Canal through S-21A+S-20G+S-20F into Biscayne Bay during the Wet Season (June-October) (1986-2011)

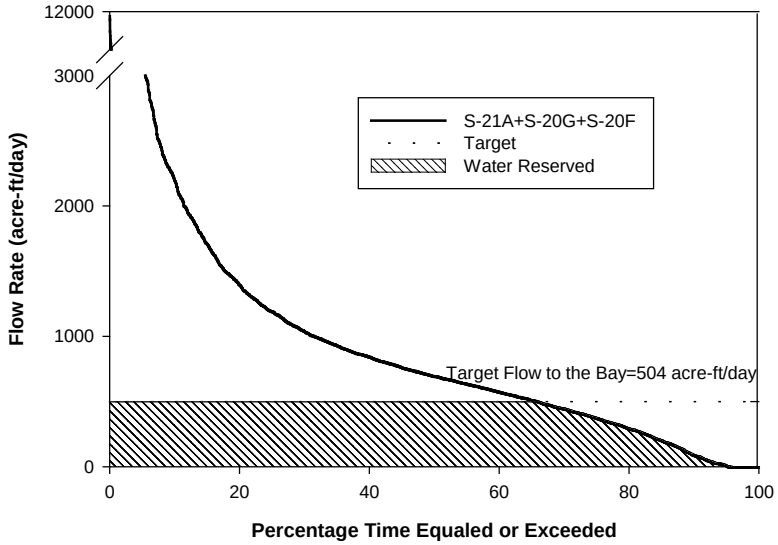
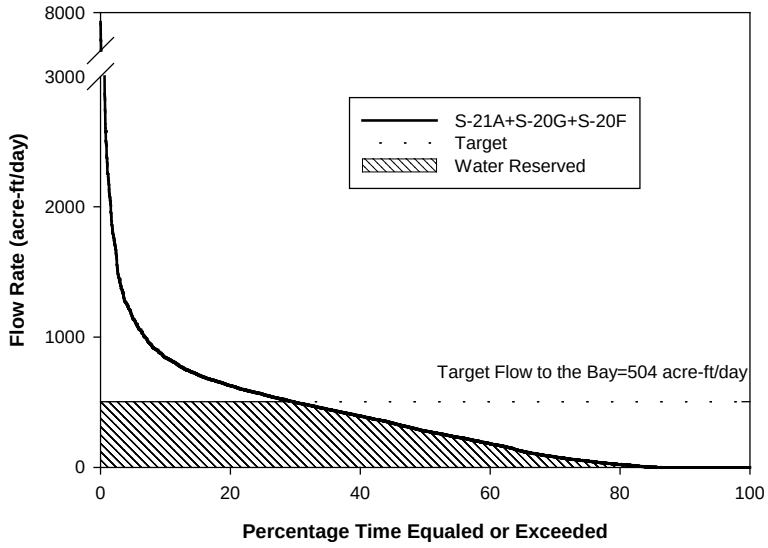


Figure 3-4.B Surface Water Flow from the C-102+Military+C-103 Canal through S-21A+S-20G+S-20F into Biscayne Bay during the Dry Season (November-May) (1986-2011)



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40E-0.113 Variances from Specified Review Criteria for Environmental Resource Permits.

Rulemaking Authority 373.044, 373.113, 373.171, 373.414(17) FS. Law Implemented 403.201 FS. History–New 9-2-98, Amended 6-12-00, 6-26-02, Repealed _____.

40E-1.602 Permits Required.

Unless expressly exempt by statute or District rule, permits must be obtained from the District prior to commencement of the following activities:

(1) through (3) No change.

(4) An ~~individual or general~~ environmental resource permit pursuant to Chapters 62-330 or 40E-4, ~~40E-40, or 40E-400,~~ F.A.C., or, an individual or general surface water management or wetland resource permit grandfathered pursuant to Sections 373.414(11)-(16), F.S., must be obtained prior to:

(a) Construction, alteration, operation, maintenance, repair or abandonment of any stormwater ~~surface water~~ management system, dam, impoundment, reservoir, appurtenant work or works including dredging or filling as prescribed by District rule,

(b) Establishment and operation of a mitigation bank.

(5) A conceptual environmental resource permit may be obtained for proposed surface water management systems or mitigation banks. However, a conceptual permit does not authorize construction or operation. A conceptual mitigation bank permit can be utilized to estimate the legal and financial requirements for the mitigation bank, information required for evaluation of the mitigation bank permit application, and potential mitigation credits that would be awarded to the specific project proposal.

(6) A proprietary authorization pursuant to Chapters 253 and 258, F.S., is required and shall be reviewed by the District for all activities which require a permit under Chapters 62-330 or 40E-4, ~~40E-40, or 40E-400,~~ F.A.C., or a permit under subsections 373.414(11)-(16), F.S., and which are located on submerged lands owned by the Board of Trustees of the Internal Improvement Trust Fund pursuant to Section 373.427, F.S., Chapter 18-21, F.A.C., and Rules 18-18.014 and 62-343.075, F.A.C.

(7) An artificial recharge permit pursuant to Chapter 40E-5, F.A.C., must be obtained prior to construction of any project involving artificial recharge or the intentional introduction of water into any underground formation;

(8) A Works or Lands of the District permit pursuant to Chapter 40E-6, F.A.C., must be obtained prior to connecting with, placing structures in or across, discharging into or making use of works of the District and any additional lands or real property interests owned by the District.

(9) A Use of Works of the District within the Lake Okeechobee Basin General or Individual Permit must be obtained pursuant to Chapter 40E-61, F.A.C., by any owner of a parcel of land within the Lake Okeechobee Basin.

(10) An Occupancy or Use of the C-18 Right of Way general or individual permit pursuant to Chapter 40E-62, F.A.C., must be obtained prior to constructing, planting, maintaining, pruning, mooring boats, and placing other items on, across, under, or upon District lands and works along

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the C-18 canal right of way.

(11) A Use of Works of the District within the Everglades general, individual or master permit pursuant to Chapter 40E-63, F.A.C., must be obtained by any owner of a parcel of land in the Everglades Agricultural Area.

Rulemaking Authority 373.044, 373.113, 373.4131, 373.4135 FS. Law Implemented ~~120.53(1)~~, ~~120.57~~, 120.60, 373.085, 373.106, Chapter 373 Parts II and IV FS. History–New 9-3-81, Formerly 16K-1.06, Amended 7-26-87, 5-11-93, 10-3-95, 4-1-96,_____.

40E-1.603 Application Procedures for Processing Permit Applications or Notices of Intent.

(1) Application procedures for environmental resource permits are set forth in Chapter 62-330, F.A.C. The following procedures for processing permit applications or notices of intent apply in addition to the requirements of Section 120.60, F.S., and Chapter 28-106, F.A.C.

(a) No change.

(b) If the District determines that the application is incomplete, the District shall request the information needed to complete the application within 30 days of its receipt. For ~~individual environmental resource permits, standard environmental resource permits,~~ individual water use permits, and standard general water use permits, the applicant shall have 90 days from receipt of a timely request for additional information to submit that information to the District.

(c) through (e) No change.

(2) No change.

(3)(a) Agency action on individual permits ~~and conceptual approvals for environmental resource permits~~ shall occur within 90 days of receipt of a complete application, including receipt of all requested information and correction of any error or omission of which the applicant was timely notified.

(b) No change.

~~(c) Agency action on a standard environmental resource permit application in Chapter 40E-40, F.A.C., shall occur within 60 days of receipt of a complete application, including receipt of all requested information and correction of any error or omission of which the applicant was timely notified.~~

~~(d) Noticed general environmental resource permits under Chapter 40E-400, F.A.C., may be utilized by the applicant 30 days after the District receives the notice of intent, unless a notice that the project does not qualify for the noticed general permit is sent by regular United States mail or electronic mail by the District within 30 days, in accordance with Rule 40E-400.211, F.A.C. If notice that the proposed project does not qualify for the noticed general permit is sent by regular United States mail or electronic mail by the District to the applicant, the review process under subsection (1) shall be initiated or the applicant shall be required to apply for the appropriate permit if the requested activity is not covered by the noticed general permit rule.~~

Rulemaking Authority ~~120.53(1),~~ 373.044, 373.113, 373.4131 FS. Law Implemented 120.60, 373.107, 373.109, 373.116, 373.229, 373.4131, 373.417, 373.421, 373.422, 668.003, 668.004, 668.50 FS. History–New 9-3-81, Formerly 16K-1.08(1)-(8), Amended 7-1-86, 7-26-87, 11-21-

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89, 5-11-93, 10-3-95, 4-1-96, 7-2-98, 6-12-00, 10-1-06, Amended 12-1-11, 10-23-12,____ _____.

40E-1.6065 Consideration of Intended Agency Decision on Permit Applications.

(1) After the application for a permit is declared by staff to be complete, the District shall prepare a Staff Review Summary, which shall contain its recommendations regarding the subject application and which shall constitute intended agency decision. A notice of intended agency decision together with the Staff Review Summary shall be furnished to the applicant and any persons requesting the same pursuant to Rule 40E-1.6058, F.A.C., as applicable. The notice shall state the District Staff's recommendation that the District approve, deny, or approve with conditions the permit application and the reasons therefore.

(2) If staff's recommendation is for denial, t~~T~~he District shall consider the application for a conceptual approval, individual environmental resource, individual surface water management, or ~~individual~~ water use permit application at its next available regularly scheduled regulatory meeting following the mailing or electronic mailing of notice of intended agency decision, unless an administrative hearing is requested and granted pursuant to Section 120.569, F.S.

(3) In no case shall agency action be taken later than 60 ~~90~~ days after the application for a conceptual approval~~,~~ or individual environmental resource permit, or later than 90 days for an individual water use permit is declared complete unless waived by the applicant or stayed by the filing of a petition for an administrative hearing. The permit applicant may voluntarily waive the timeline for governing action on the permit application in Section 120.60, F.S., in order to resolve any outstanding issues, including third party objections, regarding the project.

(4) No change.

Rulemaking Authority ~~120.53(1),~~ 373.044, 373.113 FS. Law Implemented 120.60, 373.079, 373.083, 373.107, 373.109, 373.116, 373.4141, 668.003, 668.004, 668.50 FS. History–New 7-2-98, Amended 6-12-00, 10-1-06, 10-23-12,_____.

40E-1.607 Permit Application Processing Fees.

A permit application processing fee is required and shall be paid to the District when certain applications are filed pursuant to District rules. An application shall not be considered complete until the appropriate application fee is submitted. These fees are assessed in order to defray the cost of evaluating, processing, monitoring, and inspecting for compliance required in connection with consideration of such applications. Fees are non-refundable in whole or part unless the activity for which an application is filed is determined by the District to be exempt or the fee submitted is determined by the District to be incorrect. Failure of any person to pay the applicable fees established herein will result in denial of an application. Activities that do not require a permit and are exempt pursuant to Rule 40E-2.051 or 40E-3.051, F.A.C., are not subject to the following permit application fees. The District's permit application processing fees are as follows:

(1) through (2) No change.

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(3)(a) Environmental Resource Permit Application processing fees are in the following table:

TABLE 40E-1.607(3)(a)

PERMIT APPLICATION PROCESSING FEES FOR

ENVIRONMENTAL RESOURCE PERMIT APPLICATIONS

REVIEWED PURSUANT TO CHAPTER~~S~~ 62-330 ~~40E-4, 40E-40, AND 40E-400~~, F.A.C.

For the purposes of determining the applicable processing fee, "project area" means the total area wherein works occur as part of an activity requiring a permit under Part IV of Chapter 373, F.S., including all portions of the stormwater management system serving the project area. ~~Fee amounts shall apply to applications for conceptual and construction, or conceptual, or construction, except as noted.~~

1. Use of the reviewing agency's electronic self-certification system	$0
2. Verification of exemption under Section 373.406 or 403.813(1), F.S., or under Rules 62-330.050 through 62-330.051, F.A.C.	$100
3. Verification of qualification to use a Noticed General Permit	$250
4. Individual or Conceptual Approval Permits, excluding Permits for a Mitigation Bank	
a. New applications – the processing fee for a new permit application shall be as determined from the categories below:	
(I) Total project area of less than 10 acres and no activities in, on or over wetlands or other surface waters, except where exempt under Rule 62-330.051(9)(a) through (c), F.A.C.	$2000
(II) Project exceeds any of the thresholds in (3)(a)4.a.(I), above but involves a total project area of less than 10 acres, less than 1 acre of works (i.e. dredging, filling, construction, or alteration) in, on or over wetlands and other surface waters, AND less than 10 new boat slips	$3500
(III) Project exceeds any of the thresholds in (3)(a)4.a.(II), above, but involves a total project area of less than 40 acres, less than 3 acres of works in, on or over wetlands and other surface waters, AND less than 30 new boat slips	$5500
(IV) Project exceeds any of the thresholds in (3)(a)4.a.(III), above, but involves a total project area of less than 100 acres, less than 10 acres of works in, on or over wetlands and other surface waters, AND less than 50 new boat slips	$7500
(V) Project exceeds any of the thresholds in (3)(a)4.a.(IV), above, but involves a total project area of less than 640 acres, AND less than 50 acres of works in, on or over wetlands and other surface waters	$13,125
(VI) Project exceeds any of the thresholds (3)(a)4.a.(V), above	$25,000
(VII) Projects that are exclusively for agriculture or silviculture, and that involve a total project area of less than 10 acres AND less than 1 acre of works (i.e. dredging, filling, construction, or alteration) in, on or over wetlands and other surface waters	$859
(VIII) Projects that are exclusively for agriculture or silviculture, and that exceed any of the thresholds in (3)(a)4.a.(VII), above, but involves a total project	$2,444

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area of less than 40 acres AND less than 3 acres of works in, on or over wetlands and other surface waters	
(IX) Projects that are exclusively for agriculture or silviculture, and that exceed any of the thresholds in (3)(a)4.a.(VIII), above, but involve a total project area of less than 100 acres AND less than 10 acres of works in, on or over wetlands and other surface waters	$4,029
(X) Projects that are exclusively for agriculture or silviculture, and that exceed any of the thresholds in (3)(a)4.a.(IX), above, but involve a total project area of less than 640 acres AND less than 50 acres of works in, on or over wetlands and other surface waters	$5,284
(XI) Projects that are exclusively for agriculture or silviculture, and that exceed any of the thresholds in (3)(a)4.a.(X), above	$6,605
(XII) Individual or Conceptual Permits solely for environmental restoration or enhancement activities, provided such activities are not associated with a mitigation bank and are not being implemented as mitigation for other activities that require a permit under Part IV of Chapter 373, F.S. For the purposes of this provision, the term "environmental restoration or enhancement" means an action or actions designed and implemented solely to convert degraded or altered uplands, wetlands, or other surface waters to intact communities typical of those historically present, or to improve the quality and condition of currently degraded wetlands or other surface waters to a more healthy, functional, and sustaining condition for fish, wildlife, and listed species	$250
(XIII) Individual or Conceptual Permit solely to retrofit an existing stormwater management system or systems to add treatment to and reduce stormwater pollutant loadings from the system or systems	$250
b. Major Modifications that exceed any of the thresholds in Rule 62-330.315(3), F.A.C.:	
(I) An Individual Permit or modification for a phase of construction that is consistent with an existing Conceptual Approval Permit	$1500
(II) Major Modifications to an Individual or Conceptual Approval Permit that increase the project area	60% of fee for new permit for the same activity
(III) All other Major Modifications	60% of fee for new permit for the same activity
c. Minor Modifications that do not exceed any of the thresholds in Rule 62-330.315(2), F.A.C.:	

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(I) Time Extensions of Permits, where not exempt from fees under Florida Statutes	$500
(II) Minor Modifications to correct minor errors that do not involve technical review, to transfer ownership of a permit, or to transfer a permit from the construction to the operation phase	$0
(III) All other Minor Modifications	$250
5. Individual or Conceptual Permits for a Mitigation Bank	
a.New applications	
(I) for a Mitigation Bank with a permit area less than 100 acres	$7,500
(II) for a Mitigation Bank with a permit area greater than 100 acres but less than 640 acres	$13,125
(III) for a Mitigation Bank with a permit area of 640 acres or more	$25,000
b. Major Modifications involving changes to one or more of the following components: service area; credit assessment; success or release criteria; hydrologic structures or alterations; constructions or mitigation design that does not increase the project area; elimination of lands; or monitoring or management plans:	
(I) Affecting one of the above components	20% of the fee under 5.a.
(II) Affecting two of the above components	40% of the fee under 5.a.
(III) Affecting three of the above components	60% of the fee under 5.a.
(IV) Major modifications affecting four or more of the above components or that increase the project area	100% of the fee under 5.a.
c. Major Modifications that do not involve changes to the components listed in (3)(a)5.b. above, but that exceed any of the thresholds in Rule 62-330.315(2), F.A.C.:	100% of the fee under 5.a.
d. Minor Modifications that do not exceed any of the thresholds in Rule 62-330.315(2), F.A.C.:	
(I) Time Extensions of Permits, where not exempt from fees under Florida Statutes	$500

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(II) To correct minor errors that do not involve technical review, to transfer ownership of a permit, or to transfer a permit from the construction to the operation phase	$0
(III) All other Minor Modifications	$250
e. Mitigation Bank Credit Release	$0
f. Mitigation Bank Credit Withdrawal	$0
6. Informal Wetland Determination	
a. Where total area included is less than 1 acre	$250
b. Where total area included is greater than 1 acre	$500
7. Variance or Waiver:	
a. Under Section 120.542, F.S.	$0
b. Under Section 373.414(17), F.S.	$1,125
8. Fee reductions:	
a. Applications by an entity qualifying under Section 218.075, F.S., when the fee exceeds $100.00	$100.00
b. Applications submitted by the U.S. Department of Defense	$0
c. For resubmittal, within 365 days, of an application for the same project that was previously withdrawn, under Rule 62-330.071(3), F.A.C., any fee paid as part of the previous application will be applied toward the fee required for the application under this rule	Previously paid fee shall be applied

~~Category~~	~~Amount~~
~~New Individual Permit~~	
~~Project area less than 100 acres~~	
~~Agriculture~~	~~$4,029~~
~~All others, including Mitigation Banks~~	~~$7,500~~
~~Project area 100 acres to less than 640 acres~~	
~~Agriculture~~	~~$5,284~~
~~All others, including Mitigation Banks~~	~~$13,125~~
~~Project area 640 acres or more~~	
~~Agriculture~~	~~$6,605~~
~~All others, including Mitigation Banks~~	~~$25,000~~
~~Individual Permit Modification~~	
~~Project area less than 100 acres~~	
~~Agriculture~~	~~$2,708~~
~~All others, including Mitigation Banks~~	~~$5,000~~
~~Project area 100 acres to less than 640 acres~~	
~~Agriculture~~	~~$3,303~~
~~All others, including Mitigation Banks~~	~~$10,000~~
~~Project area 640 acres or more~~	

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~~Agriculture~~	~~$4,624~~
~~All others, including Mitigation Banks~~	~~$15,000~~
~~New Standard Permit (excluding incidental site activities pursuant to Rule 40E-40.042, F.A.C.)~~	
~~Agriculture~~	~~$859~~
~~All others~~	~~$3,500~~
~~Standard Permit Modification including Application for phase construction under a Conceptual Approval~~	
~~Application for individual permit modification for a system which does not exceed the criteria in Rule 40E-40.041, F.A.C. and which is not required to obtain an individual environmental resource permit for the reasons in subsection 40E-40.011(2), F.A.C.~~	
~~Agriculture~~	~~$661~~
~~All others~~	~~$1,500~~
~~Noticed General Permit pursuant to Chapter 40E-400, F.A.C., including aquaculture~~	~~$250~~
~~Single family residential homesite consisting of 10 acres or less in total land area~~	~~$100~~
~~Standard Permit for incidental site activities pursuant to Rule 40E-40.042, F.A.C. (Early Work)~~	~~$1,000~~
~~Transfer of permit (including Mitigation Bank) to another entity pursuant to Rules 40E-1.6107 and 40E-4.351, F.A.C.~~	~~$675~~
~~Variance associated with an environmental resource permit application~~	
~~From paragraph 40E-4.301(1)(c), F.A.C.~~	~~$750~~
~~From other permitting standards, permit conditions, or water quality standards~~	~~$1,500~~
~~New Individual Operation Permit~~	~~$5,250~~
~~Letter Modification~~	~~$250~~
~~New Individual or Standard Permits, or Individual or Standard Permit Modifications, solely for environmental restoration or enhancement activities provided such activities are not associated with a mitigation bank and are not being implemented as mitigation for other activities that require a permit under Part IV of Chapter 373, F.S. Such activities may include incidental passive recreation and facilities to provide public access to the environmental restoration or enhancement site~~	~~$250~~
~~No Notice General Permits pursuant to Rules 40E-400.315 and 40E-400.316, F.A.C.~~	~~$100~~
~~Verification that an activity is exempt from regulation under Part IV, Chapter 373 or 403.813, F.S.~~	~~$100~~
~~Informal wetland boundary determinations under Part IV of Chapter 373, F.S., for~~	~~$500~~
~~property less than~~	~~$500~~
~~or equal to 1 acre~~	

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~~Permit Extensions~~

9 ~~1~~. When used in Table paragraph 40E-1.607(3)(a), F.A.C., "Agriculture" shall be defined as set forth in Section 570.02, F.S.

10 ~~2~~. For permit applications which involve a combination of fee categories, the highest fee that applies shall be charged.

11 ~~3~~. Any individual permit application submitted concurrently with a conceptual approval application – where the individual permit application represents a phase of the conceptual approval application – is exempt from the above environmental resource permit fees.

12 ~~4~~. For projects grandfathered pursuant to Section 373.414, F.S., the letter modification, conceptual approval, individual or general surface water management permit application fee shall be the same as listed in Table paragraph 40E-1.607(3)(a), F.A.C.

13 ~~5~~. The District shall use the Consumer Price Index (CPI) adopted by the United States Department of Labor since the most recently revised fee increase for revising fees under Part IV of Chapter 373, F.S., pursuant to Section 373.109, F.S. The inflation index used is the price paid by all urban consumers for a market basket of consumer goods and services; specifically, the CPI figures for the "CPI-U, U.S. City Average. All Items" established for the previous five years by the Bureau of Labor Statistics (BLS) (www.bls.gov/cpi), computed as provided in the BLS publication Bureau of Labor Staticstics Handbook of Methods, Chapter 17 (www.bls.gov/opub/hom/pdf/homch17.pdf).

(b) No change.

(4) No change.

(5) Petition for Formal Determination of Wetlands and Other Surface Waters processing fees are in the following table:

TABLE 40E-1.607(5)
DETERMINATION PETITION PROCESSING FEES FOR
FORMAL DETERMINATION OF WETLANDS AND
OTHER SURFACE WATERS

For the validation of informal, non-binding wetland determinations pursuant to Section 373.421(6), F.S., the fees shall be the same as formal determinations listed in Table subsection 40E-1.607(5), F.A.C.

Category	Amount
Property less than or equal to 10 acres	$500
Property greater than 10 acres but less than or equal to 40 ~~100~~ acres	$1,000 ~~1,500~~
Property greater than 40 acres but less than or equal to 100 acres	$1500
Additional fee per 100 acres (or portion thereof) beyond the first 100 acres	$350
~~Property greater than 100 acres but less than or equal to 320 acres~~	~~$3,500~~
~~Property greater than 320 acres~~	~~$5,000~~
Reissuance of a Formal Determination ~~Renewal~~	$350

(6) No change.

(7) PERMIT APPLICATION PROCESSING FEES FOR MODIFICATION OR

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TRANSFER OF ENVIRONMENTAL RESOURCE, SURFACE WATER MANAGEMENT OR WORKS OF THE DISTRICT PERMITS FOR PROPERTIES ACQUIRED BY THE DISTRICT PURSUANT TO THE FLORIDA FOREVER WORK PLAN OR SAVE OUR RIVERS LAND ACQUISITION AND MANAGEMENT PLAN:

(a) Modification of existing permits to reflect property ownership changes where no new works or modifications to an existing stormwater ~~surface water~~ management system is requested. $0

(b) Permit transfer pursuant to Rules 40E-1.6107 and 62-330.340 ~~40E-4.351~~, F.A.C. $0

Rulemaking Authority 373.044, 373.109, 373.113, 373.421(2), 373.421(6)(b), 373.4131 FS. Law Implemented 218.075, 373.109, 373.4131, 373.421(2), 373.421(6)(b), 403.201 FS. History–New 1-8-89, Amended 1-2-91, 11-15-92, 6-1-93, 1-23-94, 10-3-95, 4-1-96, 11-8-99, 5-24-00, 6-26-02, 7-11-02, 8-10-03, 8-14-03, 11-18-07, 11-1-09, 12-15-11, 10-23-12,_____.

40E-1.6107 Transfer of ~~Environmental Resource,~~ Surface Water Management, Water Use Permit or Wetland Resource Permit.

(1) The procedures for the transfer of environmental resource permits are set forth in Rule 62-330.310, F.A.C. To transfer a ~~an environmental resource,~~ surface water management, water use, or wetland resource permit, the permittee, in addition to satisfying the applicable provisions in Rules 40E-2.351, ~~40E-4.351,~~ and 40E-20.351, ~~and 40E-40.351,~~ F.A.C., must submit Form No. 0483, (date), (hyperlink), ~~October 2012, http://www.flrules.org/Gateway/reference.asp?No=Ref-01531~~, Request for ~~Environmental Resource~~, Surface Water Management, Water Use, or Weltand Resource Permit Transfer, incorporated by reference herein. Form 0483 is also available at no cost by contacting the South Florida Water Management District Clerk's Office, 3301 Gun Club Road, West Palm Beach, FL 33406, 1(800)432-2045, ext. 6436, or (561)682-6436.

(2) through (5) No change.

Rulemaking Authority ~~120.53(1)~~, 373.044, 373.113 FS. Law Implemented 373.083, 373.171, 373.309, 373.416, 373.426, 373.429, 373.436, 668.003, 668.004, 668.50 FS. History–New 5-11-93, Amended 10-3-95, 10-1-06, 10-23-12,_____.

40E-1.615 Coordinated Agency Review Procedures for the Florida Keys Area of Critical State Concern.

(1) No change.

(2) No change.

(a) No change.

(b) No permit and no coordinated agency review participation by the District is required for surface water management activities which are exempted by Rule 62-330.051 ~~40E-4.051~~ (Exempt Activities ~~Exemptions~~), F.A.C.

(3) The following coordinated agency review procedures apply to projects which require permits pursuant to Chapters 40E-2 or 40E-20 (Consumptive Use), 62-330, and 40E-4 ~~or 40E-40~~, (Environmental Resource), F.A.C.:

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(a) The Coordinated Review Application shall consist of the application information required by Rules 40E-1.603 (Application Procedures for Processing Permit Applications or Notices of Intent), 40E-2.101 (Content of Application) or 62-330.060 ~~40E-4.101~~ (Content of Application), F.A.C.

(b) through (f) No change.

Rulemaking Authority 373.044, 373.113, 373.4131, 380.051 FS. Law Implemented 373.4131, 380.051, 668.003, 668.004, 668.50 FS. History– New 9-22-87, Amended 10-3-95, 10-1-06, 12-1-11, 10-23-12,_____.

40E-1.659 Forms and Instructions.

The following forms and instructions are incorporated by reference throughout the District's rules as specified below and are listed herein for convenience. Hyperlinks are provided in the rules in which the forms and instructions are referenced and can be obtained without cost by contacting the South Florida Water Management District Clerk's Office, 3301 Gun Club Road, West Palm Beach, FL 33406, (800) 432-2045, ext. 6436, or (561) 682-6436.

Form No.	Date	Title
0186	No change.	No change.
0188-QMQ	No change.	No change.
0188-QASR	No change.	No change.
0188-QMON	No change.	No change.
0188-QMQF	No change.	No change.
0188-QCROP	No change.	No change.
0188-QBWDR	No change.	No change.
~~0444~~	~~12-11~~	~~Application for a Standard Permit for Incidental Site Activities, incorporated by reference in paragraph 40E-40.042(5), F.A.C.~~
0445	No change.	No change.
0483	_____ ~~9-04~~	Request for ~~Environmental Resource,~~ Surface Water Management, Water Use (Wetland Resource Permit Transfer, incorporated by reference in paragraph 40E 1.6107(1), F.A.C.
0645-W01	No change.	No change.
0645-G60	No change.	No change.

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0645-G61-1	No change.	No change.
0645-G61-2	No change.	No change.
0645-G65	No change.	No change.
0645-G74	No change.	No change.
0645-G69	No change.	No change.
0645-G70	No change.	No change.
0645-G71	No change.	No change.
0645-G72	No change.	No change.
0645-G73	No change.	No change.
0779	No change.	No change.
~~0881A~~	~~12-11~~	~~Environmental Resource/Surface Water Management Permit Construction Completion Certification, incorporated by reference in paragraph 40E-4.361(1)(b), F.A.C.~~
~~0881B~~	~~12-11~~	~~Environmental Resource/Surface Water Management Permit Construction Completion Certification-For Projects Permitted Prior to October 3, 1995, incorporated by reference in paragraph 40E-4.361(1)(b), F.A.C.~~
0889	No change.	No change.
~~0920~~	~~12-11~~	~~Request for Conversion of District Environmental Resource/Surface Water Management Permit from Construction Phase to Operation Phase and Transfer Permit to the Operating Entity, incorporated by reference in paragraph 40E-4.361(1)(a), F.A.C.~~
~~0960~~	~~12-11~~	~~Environmental Resource/Surface Water Management Permit Construction Commencement Notice, incorporated by reference in paragraph 40E-4.381(1)(~~ ~~F.A.C.~~
~~0961~~	~~12-11~~	~~Environmental Resource/Surface Water Management Permit Annual Status Report for Surface Water Management System Construction, incorporated by reference in paragraph 40E-4.361(1)(e), F.A.C.~~
~~0971~~	~~5-12~~	~~Joint Application for Environmental Resource Permit/Authorization to Use Sta Owned Submerged Lands/Federal Dredge and Fill Permit, incorporated by reference in paragraph 40E-4.101(1)(b), F.A.C.~~

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~~0972~~	~~5-12~~	~~Petition for a Formal Wetland and Surface Water Determination, incorporated b reference in paragraph 40E-4.091(1)(a), F.A.C.~~
~~0974~~	~~12-11~~	~~Notice of Intent to Construct a Minor Silvicultural System, incorporated by reference in subsection 40E-400.500(2), F.A.C.~~
~~0980~~	~~5-12~~	~~Notice of Intent to Use a Noticed General Environmental Resource Permit, incorporated by reference in subsection 40E-400.400(2), F.A.C.~~
~~1019~~	~~12-11~~	~~Mitigation Bank Performance Bond to Demonstrate Construction/Implementati Financial Assurance, incorporated by reference in paragraph 40E-4.091(1)(a), F.A.C.~~
~~1020~~	~~12-11~~	~~Mitigation Bank Irrevocable Letter of Credit to Demonstrate Construction/Implementation Financial Assurance, incorporated by reference i paragraph 40E-4.091(1)(a), F.A.C.~~
~~1021~~	~~12-11~~	~~Mitigation Bank Standby Trust Fund Agreement to Demonstrate Construction/Implementation Financial Assurance, incorporated by reference i paragraph 40E-4.091(1)(a), F.A.C.~~
~~1022~~	~~12-11~~	~~Mitigation Bank Trust Fund Agreement to Demonstrate Construction/Implementation Financial Assurance, incorporated by reference i paragraph 40E-4.091(1)(a), F.A.C.~~
~~1023~~	~~12-11~~	~~Mitigation Bank Trust Fund Agreement to Demonstrate Perpetual Managemen Financial Assurance, incorporated by reference in paragraph 40E-4.091(1)(a), F.A.C.~~
~~1024~~	~~12-11~~	~~Mitigation Bank Standby Trust Fund Agreement to Demonstrate Perpetual Management Financial Assurance, incorporated by reference in paragraph 40E-4.091(1)(a), F.A.C.~~
1045	No change.	No change.
~~1105~~	~~12-11~~	~~Performance Bond to Demonstrate Financial Assurance, incorporated by reference in paragraph 40E-4.091(1)(a), F.A.C.~~
~~1106~~	~~12-11~~	~~Irrevocable Letter of Credit to Demonstrate Financial Assurance, incorporated reference in paragraph 40E-4.091(1)(a), F.A.C.~~
~~1189~~	~~12-11~~	~~Notice of Environmental Resource or Surface Water Management Permit, incorporated by reference in paragraph 40E-4.091(1)(a), F.A.C.~~
~~1190~~	~~12-11~~	~~Deed of Conservation Easement (Standard), incorporated by reference in paragraph 40E-4.091(1)(a), F.A.C.~~
~~1191~~	~~12-11~~	~~Deed of Conservation Easement (Standard Passive Recreational), incorporated reference in paragraph 40E-4.091(1)(a), F.A.C.~~
~~1192~~	~~12-11~~	~~Deed of Conservation Easement (Standard Riparian), incorporated by reference paragraph 40E-4.091(1)(a), F.A.C.~~
~~1194~~	~~12-11~~	~~Deed of Conservation Easement (Third Party Standard), incorporated by reference in paragraph 40E-4.091(1)(a), F.A.C.~~
~~1195~~	~~12-11~~	~~Deed of Conservation Easement (Third Party Passive Recreational), incorporat~~

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		~~by reference in paragraph 40E-4.091(1)(a), F.A.C.~~
~~1196~~	~~12-11~~	~~Deed of Conservation Easement (Third Party Riparian), incorporated by refere in paragraph 40E-4.091(1)(a), F.A.C.~~
~~1197~~	~~12-11~~	~~Restrictive Covenant (Standard), incorporated by reference in paragraph 40E-4.091(1)(a), F.A.C.~~
~~1318~~	~~12-11~~	~~Deed of Conservation Easement (Local Governments), incorporated by referen in paragraph 40E-4.091(1)(a), F.A.C.~~
62-532.900(1)	No change.	No change.
62-532.900(2)	No change.	No change.

Rulemaking Authority 218.075, 373.044, 373.113, 373.4136, 373.416, 695.03, 704.06 FS. Law Implemented 218.075, 373.113, 373.4135, 373.4136, 373.416, 704.06 FS. History–New 9-3-81, Amended 12-1-82, 3-9-83, Formerly 16K-1.90, Amended 7-26-87, 11-21-89, 1-4-93, Formerly 40E-1.901, Amended 5-11-93, 4-20-94, 10-3-95, 6-26-02, 8-14-02, 8-31-03, 9-16-03, 9-20-04, 2-12-06, 1-23-07, 8-7-07, 7-4-10, 12-15-11, 5-20-12, 10-23-12, _____.

40E-4.010 Review of Environmental Resource Permit Applications.
Environmental Resource permit applications are processed pursuant to the provisions of Section 120.60, F.S., ~~Part VI of~~ Chapters 40E-1, 62-330 and 28-106, F.A.C.
Rulemaking Authority 120.54(5), 120.60, 373.4131 FS. Law Implemented 120.54(5), 120.60, 373.4131 FS. History–New 7-2-98, Amended _____.

40E-4.011 Policy and Purpose.
Rulemaking Authority 373.044, 373.113 FS. Law Implemented 373.086(1), 373.103(1), 373.103(4), 373.403-.443 FS. History–New 9-3-81, Formerly 16K-4.01, Amended 4-20-94, 10-3-95, 12-1-11, Repealed _____.

40E-4.021 Definitions.
Rulemaking Authority 373.044, 373.113 FS. Law Implemented 373.019, 373.403-.443, 403.031, 668.003, 668.004, 668.50, 704.06 FS. History–New 9-3-81, Amended 1-31-82, 12-1-82, Formerly 16K-1.05(1), Amended 7-1-86, 4-20-94, 10-3-95, 4-1-96, 10-1-06, 3-22-09, 11-11-09, 12-1-11, 5-20-12, Repealed _____.

40E-4.041 Permits Required.
Rulemaking Authority 373.044, 373.113, 373.406(5) FS. Law Implemented 373.103, 373.413, 373.416, 373.426 FS. History–New 9-3-81, Amended 12-1-82, Formerly 16K-4.03(1), 16K-4.07(1), 16K-4.09(1), Amended 1-23-94, 4-20-94, 10-3-95, 4-1-96, 1-7-97, 7-22-07, 12-1-11, Repealed _____.

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40E-4.0415 Permit Thresholds.
Rulemaking Authority 373.044, 373.113, 373.406(5) FS. Law Implemented 373.118(1), 373.413(1) FS. History–New 10-3-95, Amended 5-28-00, 6-26-02, 4-14-03, 12-1-11, Repealed _____.

40E-4.042 Formal Determination of Wetlands and Other Surface Waters.
Rulemaking Authority 373.043, 373.113, 373.421(2) FS. Law Implemented 373.421(2) FS. History–New 10-3-95, Amended 7-22-07, 12-1-11, Repealed _____.

40E-4.051 Exemptions From Permitting.
Rulemaking Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.406, 373.413, 373.416, 403.813(1), (2) FS. History–New 9-3-81, Amended 1-31-82, 3-9-83, Formerly 16K-4.02, Amended 4-20-94, 10-3-95, 5-28-00, 9-2-01, 4-14-03, 9-9-07, 12-1-11, 5-20-12, Repealed _____.

40E-4.0515 Exemptions From Specified Review Criteria.
Rulemaking Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.406, 373.413, 373.416, 403.813(2) FS. History–New 10-3-95, Amended 5-28-00, Repealed _____.

40E-4.054 Modification of Exempt Projects.
Rulemaking Authority 373.044, 373.113 FS. Law Implemented 373.406, 373.413, 373.416 FS. History–New 3-9-83, Amended 4-20-94, 10-3-95, 5-28-00, Repealed _____.

40E-4.091 Publications, Rules and Interagency Agreements Incorporated by Reference.

(1) The following publications, rules and interagency agreements are incorporated by reference herein:

(a) "~~Basis of Review for~~ Environmental Resource Permit Applicant's Handbook, Volume II For Use Within the Geographic Limits of ~~Applications within~~ the South Florida Water Management District, ~~May 20, 2012~~ _____(date)", ~~http://www.flrules.org/Gateway/reference.asp?No=Ref-01045~~ _____(hyperlink), which incorporates the following forms or materials by reference:

1. U.S. Department of Agriculture, Soil Conservation Service, "Rainfall Frequency Atlas of Alabama, Florida, Georgia and South Carolina for Durations from 30 Minutes to 24 Hours and Return Periods from 1 to 100 years" (1978) (hyperlink), referenced in Subsection 5.7.2(c) ~~Form No. 0972, Petition for a Formal Wetland and Surface Water Determination, May 20, 2012, http://www.flrules.org/gateway/reference.asp?No=Ref-01047, (referenced in Section 4.5.1)~~;

2. Florida Department of Transportation "Drainage Manual, Appendix B: IDF-Curves, Precipitation Data, Rainfall Distributions" (August 2001) (hyperlink), referenced in Subsection

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5.7.2(d)~~Form No. 1019, Mitigation Bank Performance Bond to Demonstrate Construction/Implementation Financial Assurance, December 2011, http://www.flrules.org/Gateway/reference.asp?No=Ref-00069, (referenced in Section 4.4.4.7)~~;

3. U.S. Department of Agriculture, Natural Resources Conservation Service, "National Engineering Handbook, Part 630, Chapter 10" (2004) (hyperlink), referenced in Subsection 5.7.6(b) ~~Form No. 1020, Mitigation Bank Irrevocable Letter of Credit to Demonstrate Construction/Implementation Financial Assurance, December 2011, http://www.flrules.org/Gateway/reference.asp?No=Ref-00070, (referenced in Section 4.4.4.7)~~;

~~4. Form No. 1021, Mitigation Bank Standby Trust Fund Agreement to Demonstrate Construction/Implementation Financial Assurance, December 2011, http://www.flrules.org/Gateway/reference.asp?No=Ref-00071, (referenced in Section 4.4.4.7);~~

~~5. Form No. 1022, Mitigation Bank Trust Fund Agreement to Demonstrate Construction/Implementation Financial Assurance, December 2011, http://www.flrules.org/Gateway/reference.asp?No=Ref-00072, (referenced in Section 4.4.4.7)~~;

~~6. Form No. 1023, Mitigation Bank Trust Fund Agreement to Demonstrate Perpetual Management Financial Assurance, December 2011, http://www.flrules.org/Gateway/reference.asp?No=Ref-00073, (referenced in Section 4.4.4.7);~~

~~7. Form No. 1024, Mitigation Bank Standby Trust Fund Agreement to Demonstrate Perpetual Management Financial Assurance, December 2011, http://www.flrules.org/Gateway/reference.asp?No=Ref-00074, (referenced in Section 4.4.4.7);~~

~~8. Form No. 1105, Performance Bond, December 2011, http://www.flrules.org/Gateway/reference.asp?No=Ref-00075, (referenced in Section 4.3.7.6);~~

~~9. Form No. 1106, Irrevocable Letter of Credit, December 2011, http://www.flrules.org/Gateway/reference.asp?No=Ref-00076, (referenced in Section 4.3.7.6);~~

~~10. Form No. 1190, Deed of Conservation Easement (Standard), December 2011 http://www.flrules.org/Gateway/reference.asp?No=Ref-00078, (referenced in Section 4.3.8)~~;

~~11. Form No. 1191, Deed of Conservation Easement (Standard Passive Recreational), December 2011, http://www.flrules.org/Gateway/reference.asp?No=Ref-00079, (referenced in Section 4.3.8);~~

~~12. Form No. 1192, Deed of Conservation Easement (Standard Riparian), December 2011, http://www.flrules.org/Gateway/reference.asp?No=Ref-00080, (referenced in Section 4.3.8);~~

~~13. Form No. 1194, Deed of Conservation Easement (Third Party Standard), December 2011, http://www.flrules.org/Gateway/reference.asp?No=Ref-00081 (referenced in Section 4.3.8)~~;

~~14. Form No. 1195, Deed of Conservation Easement (Third Party Passive Recreational), December 2011, http://www.flrules.org/Gateway/reference.asp?No=Ref-00082, (referenced in Section 4.3.8);~~

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~~15. Form No. 1196, Deed of Conservation Easement (Third Party Riparian), December 2011, http://www.flrules.org/Gateway/reference.asp?No=Ref-00083, (referenced in Section 4.3.8);~~

~~16.Form No. 1197, Restrictive Covenant (Standard), December 2011, http://www.flrules.org/Gateway/reference.asp?No=Ref-00084, (referenced in Section 4.3.8);~~

~~17. Form No. 1318, Deed of Conservation Easement (Local Governments), December 2011, http://www.flrules.org/Gateway/reference.asp?No=Ref-00085, (referenced in Section 4.3.8);~~

4~~18~~. Chapter 27, Article XIII, Wellfield Protection Ordinance, Broward County Code of Ordinances, last amended September 28, 1999, http://www.flrules.org/Gateway/reference.asp?No=Ref-00052, referenced in Section 4.2.2(b)6.b;

5~~19.~~ Dade County Wellfield Protection Ordinance contour showing maximum limits (Section 24-43 Protection of Public Potable Water Supply Wells; Chapter 24 Environmental Protection; Code of Metropolitan Dade County, Florida; Codified through Ordinance No. 11-01, enacted January 20, 2011 (Supp. No. 68)), http://www.flrules.org/Gateway/reference.asp?No=Ref-00053, referenced in Section 4.2.2(b)6.c.

~~(b) 50 C.F.R., section 17.12, April 8, 2004, http://www.flrules.org/Gateway/reference.asp?No=Ref-00044; and Rules 68A-27.003, December 16, 2003, http://www.flrules.org/Gateway/reference.asp?No=Ref-00092, 68A-27.004, May 15, 2008, http://www.flrules.org/Gateway/reference.asp?No=Ref-00444, and 68A-27.005, F.A.C., November 8, 2007, http://www.flrules.org/Gateway/reference.asp?No=Ref-00093.~~

(b)~~(c)~~ Operating Agreement Concerning Regulation Under Part IV, Chapter 373, F.S., between South Florida Water Management District and Department of Environmental Protection, July 1, 2007, http://www.flrules.org/Gateway/reference.asp?No=Ref-00055.

(c)~~(d)~~ State water quality standards set forth in Chapters 62-4 (5/9/2013) ~~April 21, 2009~~, http://www.flrules.org/Gateway/reference.asp?No=Ref-00034, 62-302~~,~~ (12/20/2012) ~~August 5, 2010~~, http://www.flrules.org/Gateway/reference.asp?No=Ref-00035, 62-520~~,~~ (7/12/2009) ~~July 12, 2009~~, http://www.flrules.org/Gateway/reference.asp?No=Ref-00036, ~~62-522, July 12, 2009, http://www.flrules.org/Gateway/reference.asp?No=Ref-00037,~~ and 62-550, F.A.C., (2/16/2012) ~~September 18, 2007~~, http://www.flrules.org/Gateway/reference.asp?No=Ref-00038. The state water quality standards are also defined and incorporated in Section 2.1.19 of the Applicant's Handbook, Volume II.

(d)~~(e)~~ Chapter 62-312, Part IV, F.A.C., "Additional Criteria for Dredging and Filling Within Outstanding Florida Waters in Monroe County," (2/16/2012) ~~March 15, 2007~~, http://www.flrules.org/Gateway/reference.asp?No=Ref-00039.

~~(f) 40 C.F.R., section 264.143(f), for the purpose of providing financial responsibility and corporate guarantee requirements, July 14, 2006, http://www.flrules.org/Gateway/reference.asp?No=Ref-00057.~~

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~~(g) Chapter 62-340, F.A.C., as ratified by Section 373.4211, F.S., for the purpose of delineating wetlands and other surface waters, July 1, 1994, http://www.flrules.org/Gateway/reference.asp?No=Ref-00040.~~

~~(h) 30 C.F.R., section 800.23 self-bonding provisions, January 14, 1988 http://www.flrules.org/Gateway/reference.asp?No=Ref-00056.~~

(e)~~(i)~~ Delegation Agreement among the Florida Department of Environmental Protection, the South Florida Water Management District, and Broward County, (dated May 22, 2001), http://www.flrules.org/Gateway/reference.asp?No=Ref-00054.

(2) No change.

Rulemaking Authority 373.044, 373.103(8), 373.113, 373.171, 373.413, 373.4131, 373.441, ~~668.003, 668.004, 668.50,~~ 704.06 FS. Law Implemented 373.413, 373.4131, 373.4135, 373.4137, 373.414, 373.4142, 373.416, 373.418, 373.421, 373.426, 373.441, 668.003, 668.004, 668.50, 695.26, 704.06 FS. History–New 9-3-81, Amended 1-31-82, 12-1-82, Formerly 16K-4.035(1), Amended 5-1-86, 7-1-86, 3-24-87, 4-14-87, 4-21-88, 11-21-89, 11-15-92, 1-23-94, 4-20-94, 10-3-95, 1-7-97, 12-3-98, 5-28-00, 8-16-00, 1-17-01, 7-19-01, 6-26-02, 6-26-02, 4-6-03, 4-14-03, 9-16-03, 12-7-04, 2-12-06, 10-1-06, 11-20-06, 1-23-07, 7-1-07, 7-22-07, 11-11-09, 7-1-10, 7-4-10, 12-15-11, 5-20-12, _____.

NOTE: The "Environmental Resource Permit Applicant's Handbook, Volume II For Use Within the Geographic Limits of the South Florida Water Management District - _____(date)_____," incorporated by reference in proposed paragraph 40E-4.091(1)(a), F.A.C., may be viewed at http://www.sfwmd.gov/rules.

40E-4.101 Content of Permit Applications.

Rulemaking Authority 373.016, 373.044, 373.113, 373.171, 668.003, 373.416, 668.004, 668.50 FS. Law Implemented 373.016, 373.117, 373.413, 373.416, 373.426, 668.003, 668.004, 668.50 FS. History–New 9-3-81, Amended 1-31-82, 12-1-82, Formerly 16K-4.03(2), 16K-4.07(2), 16K-4.09(2), Amended 7-1-86, 11-21-89, 4-20-94, 10-3-95, 5-28-00, 4-14-03, 8-14-03, 2-12-06, 10-1-06, 12-1-11, 5-20-12, Repealed _____.

40E-4.201 Forms and Instructions.

Rulemaking Authority 120.53(1), 373.044, 373.113, 373.118 FS. Law Implemented 120.53(1), 373.044, 373.113, 373.116, 373.118, 373.229, 373.413, 373.421 FS. History–New 10-3-95, Amended 12-1-11, Repealed _____.

40E-4.205 Permit Application Processing Fees.

Rulemaking Authority 373.044, 373.109, 373.113, 373.171, 373.421 FS. Law Implemented 373.109, 373.421 FS. History–New 10-3-95, Repealed _____.

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40E-4.301 Conditions for Issuance of Permits.
Rulemaking Authority 373.044, 373.113 FS. Law Implemented 373.413, 373.416, 373.426 FS. History–New 9-3-81, Amended 1-31-82, 12-1-82, Formerly 16K-4.035(2), 16K-4.30, Amended 7-1-86, 3-24-87, 4-14-87, 7-9-87, 4-21-88, 4-20-94, 10-3-95, 4-1-96, 1-7-97, 7-22-07, 12-1-11, Repealed _____.

40E-4.302 Additional Conditions for Issuance of Permits.
Rulemaking Authority 373.044, 373.113, 373.171, 373.414(9) FS. Law Implemented 373.042, 373.409, 373.413, 373.414, 373.416, 373.426, 380.23 FS. History–New 10-3-95, Amended 1-7-97, 12-3-98, 5-28-00, 7-1-07, 7-22-07, 12-1-11, Repealed _____.

40E-4.303 Environmental Resource Permit Authorization.
Rulemaking Authority 373.044, 373.113 FS. Law Implemented 373.413, 373.416, 373.421 FS. History–New 10-3-95, Amended 12-1-11, Repealed _____.

40E-4.305 Conceptual Approvals.
Rulemaking Authority 373.044, 373.113, 373.171, 380.06(9) FS. Law Implemented 373.413, 373.416, 373.421(2), 380.06(9) FS. History–New 10-3-95, Amended 4-14-03, 12-1-11, Repealed _____.

40E-4.321 Duration of Permits.
Rulemaking Authority 373.044, 373.113, 668.003, 668.004, 668.50 FS. Law Implemented 373.413, 373.416, 373.419, 373.426, 668.003, 668.004, 668.50 FS. History–New 9-3-81, Amended 1-31-82, 12-1-82, Formerly 16K-4.07(4), Amended 7-1-86, 4-20-94, 10-3-95, 5-28-00, 10-1-06, 12-1-11, 5-20-12, Repealed _____.

40E-4.331 Modification of Permits.
Rulemaking Authority 373.044, 373.113 FS. Law Implemented 373.413, 373.416(1) FS. History–New 12-1-82, Formerly 16K-2.031(1), 16K-2.032(1)(a), Amended 7-1-86, 11-21-89, 4-20-94, 10-3-95, 12-1-11, Repealed _____.

40E-4.341 District Revocation or Modification of Permits.
Rulemaking Authority 373.044, 373.113 FS. Law Implemented 373.429 FS. History–New 12-1-82, Amended 7-1-86, 4-20-94, 10-3-95, 7-2-98, 5-28-00, Repealed _____.

40E-4.351 Transfer of Permits.
Rulemaking Authority 373.044, 373.113 FS. Law Implemented 373.413, 373.416(2) FS. History–New 9-3-81, Amended 12-1-82, Formerly 16K-4.07(4), Amended 4-20-94, 10-3-95, Repealed _____.

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40E-4.361 Conversion from Construction Phase to Operation Phase.
Rulemaking Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.413, 373.416 FS. History–New 10-3-95, Amended 1-7-97, 4-14-03, 9-16-03, 7-22-07, 12-1-11, Repealed _____.

40E-4.381 General Conditions.
Rulemaking Authority 373.044, 373.113, 373.171, 668.003, 668.004, 668.50 FS. Law Implemented 373.116, 373.229, 373.413, 373.416, 373.421, 373.422, 373.426, 668.003, 668.004, 668.50 FS. History–New 9-3-81, Amended 1-31-82, 12-1-82, Formerly 16K-4.07(3), 16K-4.38, Amended 7-1-86, 4-20-94, 10-3-95, 1-7-97, 4-14-03, 9-16-03, 10-1-06, 7-22-07, 12-1-11, Repealed _____.

40E-4.451 Emergency Authorization.
Rulemaking Authority 373.044, 373.113 FS. Law Implemented 373.119(2), 373.413 FS. History–New 9-3-81, Formerly 16K-4.13, Amended 10-3-95, 7-2-98, Repealed _____.

40E-40.010 Review of Environmental Resource Standard Permit Applications.

Rulemaking Authority 120.54(5), 120.60 FS. Law Implemented 120.54(5), 120.60 FS. History–New 7-2-98, Amended 12-1-11, Repealed _____.

40E-40.011 Policy and Purpose.

Rulemaking Authority 373.044, 373.113, 373.118, 373.413(1) FS. Law Implemented 373.118, 373.413(1), 373.416 FS. History–New 9-3-81, Formerly 16K-4.021(1)(d), 16K-4.022(1)(e), Amended 7-26-87, 4-20-94, 10-3-95, 12-1-11, Repealed _____.

40E-40.021 Definitions.

Rulemaking Authority 373.044, 373.113 FS. Law Implemented 373.019, 373.403, 373.413, 373.416, 373.419, 403.031(16), 704.06 FS. History–New 9-3-81, Amended 12-1-82, 7-26-87, 4-20-94, 10-3-95, Repealed _____.

40E-40.031 Implementation.

Rulemaking Authority 373.044, 373.113, 373.118(1) FS. Law Implemented 373.103(1), Part IV, Ch. 373 FS. History–New 9-3-81, Amended 12-1-82, 7-26-87, 4-20-94, 10-3-95, 12-1-11, Repealed _____.

40E-40.041 Permit Thresholds.

Rulemaking Authority 373.044, 373.113 FS. Law Implemented 373.406(5), 373.413(1), 373.416 FS. History–New 4-20-94, Amended 10-3-95, 5-28-00, 6-26-02, 12-1-11, Repealed _____.

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40E-40.042 Standard Permit for Incidental Site Activities.

Rulemaking Authority 373.044, 373.113 FS. Law Implemented 120.60(2), 373.103(4), 373.118, 373.413, 373.416 FS. History–New 9-3-81, Formerly 16K-4.021(1), 16K-4.022(1), Amended 12-1-82, 7-26-87, 4-20-94, 10-3-95, 5-28-00, 12-15-11, Repealed _____.

40E-40.051 Standard Permit Authorization.

Rulemaking Authority 373.044, 373.113 FS. Law Implemented 373.103(2), (6), 373.427 FS. History–New 10-3-95, Amended 4-1-96, 5-28-00, 7-19-07, 12-1-11, Repealed _____.

40E-40.061 Delegation of Authority Pertaining to General Environmental Resource Permits, General Surface Water Management Permits and Associated Sovereign Submerged Lands Authorizations.

Rulemaking Authority 120.53(1), 373.044, 373.113, 373.118 FS. Law Implemented 120.53, 373.016, 373.118 FS. History–New 4-1-96, Formerly 40E-1.6015, Amended 5-28-00, 7-19-07, Repealed _____.

40E-40.091 Publications, Rules and Interagency Agreements Incorporated by Reference.

Rulemaking Authority 120.54(8), 373.044, 373.046, 373.113, 373.171, 373.414, 403.812 FS. Law Implemented 120.54(8), 373.046, 373.403, 373.413, 373.414, 373.416, 373.429 FS. History–New 11-15-92, Amended 1-23-94, 4-20-94, 10-3-95, Repealed _____.

40E-40.101 Content of Permit Application.

Rulemaking Authority 373.044, 373.113 FS. Law Implemented 373.117, 373.413, 373.416, 373.426 FS. History–New 10-3-95, Repealed _____.

40E-40.141 Request for Additional Information.

Rulemaking Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.416, 373.419 FS. History–New 9-3-81, Amended 4-20-94, 10-3-95, 4-14-03, 12-1-11, Repealed _____.

40E-40.302 Conditions for Issuance of Permits.

Rulemaking Authority 373.044, 373.113, 373.149, 373.171 FS. Law Implemented 373.046, 373.413, 373.416 FS. History–New 9-3-81, Formerly 16K-4.021(1)(a), (2), 16K-4.022(1)(a), (b), Amended 12-1-82, 7-26-87, 11-15-92, 4-20-94, 10-3-95, 12-1-11, Repealed _____.

40E-40.321 Duration of Permits.

Rulemaking Authority 373.044, 373.113 FS. Law Implemented 373.413, 373.416, 373.419, 373.426 FS. History–New 9-3-81, Amended 12-1-82, 7-26-87, 4-20-94, 10-3-95, 12-1-11, Repealed _____.

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40E-40.331 Modification of Permits.

Rulemaking Authority 373.044, 373.113 FS. Law Implemented 373.413, 373.416(1) FS. History–New 12-1-82, Amended 4-20-94, 10-3-95, 12-1-11, Repealed _____.

40E-40.341 District Revocation or Modification of Permits.

Rulemaking Authority 373.044, 373.113 FS. Law Implemented 120.60(6), 373.429 FS. History–New 9-3-81, Formerly 16K-4.021(1)(e), 16K-4.022(1)(f), Amended 12-1-82, 10-3-95, 7-2-98, 12-1-11, Repealed _____.

40E-40.351 Transfer of Permits.

Rulemaking Authority 373.044, 373.113 FS. Law Implemented 373.413, 373.416(2) FS. History–New 12-1-82, Repealed _____.

40E-40.381 General Conditions.

Rulemaking Authority 373.044, 373.113, 373.118, 373.171 FS. Law Implemented 373.117, 373.118, 373.413, 373.416, 373.419 FS. History–New 9-3-81, Formerly 16K-4.021(1)(b), 16K-4.022(1)(c), Amended 7-26-87, 4-20-94, 10-3-95, 4-14-03, 12-1-11, Repealed _____.

40E-40.391 Forms and Instructions.

Rulemaking Authority 120.53(1), 373.044, 373.113, 373.118 FS. Law Implemented 120.52(16), 120.53(1), 373.085, 373.116, 373.118, 373.103, 373.106, 373.229, 373.413 FS. History–New 10-3-95, Amended 12-1-11, Repealed _____.

40E-40.407 Permit Application Processing Fees.

Rulemaking Authority 373.044, 373.113 FS. Law Implemented 373.109 FS. History–New 10-3-95, Repealed _____.

40E-41.011 Policy and Purpose.

The rules in this part establish supplemental Environmental Resource Permit criteria for specified basins which insure that development within named basins incorporates the appropriate environmental, water quantity and water quality control measures necessary to protect the integrity of the public investments in the basin and minimize adverse impacts to the water resources of the District. Criteria delineated in this chapter are in addition to criteria specified in Chapters 40E-4 or 62-330~~, 40E-40 or 40E-400~~, F.A.C. The criteria, exemptions and additional requirements specified in this part are not intended to supersede or rescind the terms and conditions of any valid Environmental Resource Conceptual Approval, Construction or Operation Permit or Surface Water Management Conceptual Approval, Construction or Operation Permit, or certification order issued pursuant to Sections 403.501-.518 and 403.52-.5365, F.S., prior to the effective date of this part. In addition, the rules establish additional criteria for the named basins which insure that the use of the District's works or land is

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consistent with the policies of the District.

Rulemaking Authority 373.044, 373.113, 373.4131 FS. Law Implemented 373.413, 373.4131, 373.416 FS. History–New 9-3-81, Formerly 16K-34.01, Amended 4-11-85, 4-20-94, 10-21-01, _____.

40E-41.043 Application of Part I.

All projects located within the Western Canal 9 Basin requiring permits pursuant to Chapter 62-330 ~~Rule 40E-4.041~~, F.A.C., shall be constructed, altered, operated, maintained and abandoned in accordance with the criteria specified in Rules 62-330.301 ~~40E-4.301~~, 62-330.302 ~~40E-40.302~~ and 40E-41.063, F.A.C., unless specifically exempted in Rule 62-330.051 ~~40E-4.051 or 40E-41.053~~, F.A.C. The most restrictive criteria will be applicable unless the applicant can demonstrate to the District's satisfaction through accepted methodology that the purpose and intent of this part will be fulfilled using alternate criteria.

Rulemaking Authority 373.044, 373.113, 373.4131 FS. Law Implemented 373.413, 373.4131, 373.416, 373.426 FS. History–New 9-3-81, Formerly 16K-34.04, Amended 4-20-94, _____.

40E-41.053 Exemptions.

Projects which have received final approval of construction plans, or equivalent approval, from local government prior to the effective date of this part are hereby exempt from the fill encroachment criteria specified in subsection 40E-41.063(4), F.A.C. All other criteria specified in Rules 62-330.301 ~~40E-4.301~~, 62-330.302 ~~40E-40.302~~ and 40E-41.063, F.A.C., must be strictly met.

Rulemaking Authority 373.044, 373.113, 373.4131 FS. Law Implemented 373.413, 373.4131, 373.416 FS. History–New 9-3-81, Formerly 16K-34.05, Amended 4-20-94, _____.

40E-41.063 Conditions for Issuance of Permits in the Western Canal 9 Basin.

(1) No change.

(2) For systems designed to be pumped from fully diked areas, discharge shall be limited to three-fourths of an inch per twenty-four hours, or the criteria in Rules 62-330.301 ~~40E-4.301~~ and 62-330.302 ~~40E-40.302~~, F.A.C., whichever is more restrictive. In addition, no pumping shall be permitted when Canal 9 stages at pump tailwater exceed the 25-year peak elevation of 6.8 feet mean sea level.

(3) through (4) No change.

Rulemaking Authority 373.044, 373.113, 373.4131 FS. Law Implemented 373.413, 373.4131, 373.416 FS. History–New 9-3-81, Formerly 16K-34.06, Amended 4-20-94, _____.

40E-41.143 Application of Part II.

(1) All projects located within the Kissimmee River Basin requiring permits pursuant to Chapter 62-330 ~~Rule 40E-4.041~~, F.A.C., shall be constructed, altered, operated, maintained and abandoned in accordance with the criteria specified in Rules 62-330.301 ~~40E-4.301~~, 62-330.302

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~~40E-40.302~~ and 40E-41.163, F.A.C., unless specifically exempted by Section 373.406, F.S..

(2) The criteria set forth in Rule 40E-41.163, F.A.C., shall be considered more restrictive than that set forth in Rule 62-330.301 ~~40E-4.301~~ and 62-330.302 ~~40E-40.302~~, F.A.C. The most restrictive criteria will be applicable unless the applicant can demonstrate through accepted scientific and technical methodology that the purpose and intent of this part will be fulfilled by the use of alternate criteria.

(3) through (4) No change.

Rulemaking Authority 373.044, 373.113, 373.4131 FS. Law Implemented 373.085, 373.086, 373.413, 373.4131, 373.416 FS. History–New 5-1-85, Amended 4-20-94,_____.

40E-41.160 Content of Application.

All projects located within the Kissimmee River Basin requiring permits pursuant to Chapter 62-330 ~~Rule 40E-4.041~~, F.A.C., shall submit the information specified by Rule 62-330.060 ~~40E-4.101 or 40E-40.112~~, F.A.C., as appropriate, and the following information:

(1) through (2) No change.

Rulemaking Authority 373.044, 373.113, 373.4131 FS. Law Implemented 373.413, 373.4131, 373.416 FS. History–New 5-1-85, Amended 4-20-94,_____.

40E-41.243 Application of Part III.

(1) All projects located within the C-51 Basin which propose to discharge directly or indirectly into C-51 Canal or which are connected directly or indirectly in the C-51 Basin and which require permits pursuant to Rule 62-330.020 ~~40E-4.041~~, F.A.C., or this part shall be constructed, altered, operated, maintained and abandoned in accordance with the criteria specified in Rules 62-330.301 ~~40E-4.301~~, 62-330.302 ~~40E-4.302, F.A.C.~~, and 40E-41.263, F.A.C., unless specifically exempted by Rule 40E-4.051, F.A.C.

(2) through (4) No change.

Rulemaking Authority 373.044, 373.113, 373.4131 FS. Law Implemented 373.085, 373.086, 373.413, 373.4131, 373.416 FS. History–New 5-15-87, Amended 4-20-94, 12-1-11,_____ _____.

40E-41.260 Content of Application.

(1) No change.

(2) In addition all projects in the C-51 Basin which require permits pursuant to Chapter 62-330 ~~Rule 40E-4.041~~, F.A.C., shall submit the information specified by Rule 62-330.060 ~~40E-4.101 or 40E-40.112~~, F.A.C., and all projects located in the C-51 Basin which require a permit pursuant to Rule 40E-6.041, F.A.C., shall submit the information required under Rule 40E-6.101, F.A.C.

Rulemaking Authority 373.044, 373.113, 373.4131 FS. Law Implemented 373.085, 373.413, 373.4131, 373.416 FS. History–New 5-15-87, Amended 4-20-94, 12-1-11,_____.

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40E-41.263 Conditions for Issuance of Permits in the C-51 Basin.
The following criteria shall apply:

(1)(a) No change.

(b) This criteria is not intended to limit inflows to the C-51 Canal to the rates specified in subsection (a) above during non-flood conditions. Discharge capacity up to 27 cfs during non-flood conditions shall be considered on a case-by-case basis pursuant to the criteria in the "~~Basis of Review for~~ Environmental Resource Permit Applicant's Handbook Volume II for Use Within the Geographic Limits of ~~Applications within~~ the South Florida Water–Management District," incorporated by reference in paragraph 40E-4.091(1)(a), F.A.C., and 62-330.010(4)(b)5. ~~Rule 40E-4.301~~, F.A.C.

(2) through (3) No change.

(4) All criteria in the "~~Basis of Review for~~ Environmental Resource Permit Applicant's Handbook Volume II for Use Within the Geographic Limits of ~~Applications within~~ the South Florida Water Management District," which is incorporated by reference in paragraph 40E-4.091(1)(a), F.A.C., and 62-330.010(4)(b)5., F.A.C.

(5) No change.

Rulemaking Authority 373.044, 373.113, 373.4131 FS. Law Implemented 373.085, 373.413, 373.4131, 373.416 FS. History–New 5-15-87, Amended 12-1-11, _____.

40E-41.333 Implementation.

(1) through (2) No change.

(3) Permit applications submitted pursuant to a valid conceptual approval shall be evaluated in accordance with Rules 62-330.055 or 62-330.056 ~~40E-4.305~~, F.A.C., (Conceptual Approvals).

Rulemaking Authority 373.044, 373.113, 373.4131 FS. Law Implemented 373.413, 373.4131, 373.416 FS. History–New 10-21-01, Amended _____.

40E-41.343 Application of Part IV.
All projects located within the WPA, WPAB, or adjacent to the Protective Levees which require permits pursuant to Chapter 62-330 ~~Rule 40E-4.041~~, F.A.C., shall be constructed, altered, operated, maintained and abandoned in accordance with the criteria specified in Rules 62-330.301 ~~40E-4.301~~ and 62-330.302 ~~40E-4.302~~, ~~or Rule 40E-40.302~~, F.A.C., as applicable, (Environmental Resource Permits Conditions for Issuance) and Rule 40E-41.363, F.A.C., (Conditions for Issuance of Environmental Resource Permits and Surface Water Management Permits in the Water Preserve Area, Water Preserve Area Basin, or Adjacent to the Protective Levees).

Rulemaking Authority 373.044, 373.113, 373.4131 FS. Law Implemented 373.413, 373.4131, 373.416 FS. History–New 10-21-01, Amended _____.

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40E-41.363 Conditions for Issuance of Permits in the Water Preserve Area, Water Preserve Area Basin, or Adjacent to the Protective Levees.

(1) through (4) No change.

(5) In addition to the water quality treatment volumes required in section 4.2.1 ~~5.2.1~~. of the Applicant's Handbook Volume II ~~Basis of Review~~, projects within the WPA or WPAB shall provide an additional fifty (50) percent retention/detention water quality treatment.

(6) No change.

~~(7) Reduced mitigation ratios set forth in section 4.3.2.4 of the "Basis of Review for Environmental Resource Permit Applications within the South Florida Water Management District," incorporated by reference in paragraph 40E-4.091(1)(a), F.A.C, shall not apply in the WPA.~~

~~(8) In order to qualify for the reduced mitigation ratios set forth in section 4.3.2.4 of the "Basis of Review for Environmental Reource Permit Applications within the South Florida Water Management District," incorporated by reference in paragraph 40E-4.091(1)(a), F.A.C., projects located within the WPAB shall:~~

~~(a) Provide a management plan for the control of exotic and nuisance species;~~

~~(b) Maximize the spatial extent and connectivity of wetlands, wetland mitigation areas and open space; and~~

~~(c) Incorporate a minimum of 50% native trees, shrubs and ground cover in the project landscape plan.~~

~~(9) The exotic and nuisance species management plan referenced in (8)(a) shall include as a minimum the following. All invasive exotic plants defined by the Florida Exotic Pest Plant Council (EPPC) as Category I plants will be removed or killed in place during the initial wetland construction, restoration and enhancement phase of the mitigation project or onsite natural area clearing. Subsequent regrowth of the invasive exotic and undesirable vegetation will be maintained at or below five (5) percent of coverage of the wetland mitigation area. During the construction, restoration and enhancement phases of the mitigation project and as part of the perpetual maintenance of the mitigation areas, every effort will be taken to attain zero percent coverage of exotic/nuisance plant species immediately following maintenance activities.~~

(7)~~(10)~~ Mitigation for proposed impacts incurred in the WPA or WPAB must be provided within the WPAB, or at a mitigation bank or Regional Offsite Mitigation Area with an approved mitigation service area that includes the impact site, provided all other applicable criteria are met.

Rulemaking Authority 373.044, 373.113, 373.4131 FS. Law Implemented 373.413, 373.4131, 373.416 FS. History–New 10-21-01, Amended 12-1-11,_____.

40E-400.010 Review of No Notice and Noticed General Environmental Resource Permit Applications.

Rulemaking Authority 120.54(5), 120.60 FS. Law Implemented 120.54(5), 120.60 FS. History–New 7-2-98, Repealed_____.

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40E-400.021 Definitions.

Rulemaking Authority 373.044, 373.113, 373.118, 373.171 FS. Law Implemented 373.118, 373.413, 373.416, 373.426 FS. History–New 10-3-95, Amended 4-14-03, 5-20-12, Repealed _____.

40E-400.201 Policy and Purpose.

Rulemaking Authority 373.044, 373.113, 373.118 FS. Law Implemented 373.118, 373.413, 373.416, 373.426 FS. History–New 10-3-95, Repealed _____.

40E-400.211 Processing Procedures for Noticed General Permits.

Rulemaking Authority 373.044, 373.113, 373.118, 668.003, 668.004, 668.50 FS. Law Implemented 373.109, 373.118, 373.413, 373.416, 373.426, 668.003, 668.004, 668.50 FS. History–New 10-3-95, Amended 7-2-98, 10-1-06, 12-1-11, 5-20-12, Repealed _____.

40E-400.215 General Conditions for All No Notice and Noticed General Permits.

Rulemaking Authority 373.044, 373.113, 373.118 FS. Law Implemented 373.109, 373.118, 373.413, 373.416, 373.426 FS. History–New 10-3-95, Amended 7-2-98, Repealed _____.

40E-400.315 No Notice General Permit for Activities in Uplands.

Rulemaking Authority 373.044, 373.113, 373.118, 373.171, 373.4131, 403.813, 403.814 FS. Law Implemented 373.118, 373.413, 373.4131, 373.416, 373.426 FS. History–New 10-3-95, Amended 4-14-03, 10-18-09, Repealed _____.

40E-400.316 No Notice General Permit for Road Grading and Pavement Resurfacing.

Rulemaking Authority 373.044, 373.113, 373.118 FS. Law Implemented 373.118, 373.413, 373.416, 373.426 FS. History–New 10-3-95, Repealed _____.

40E-400.417 General Permit for Construction, Alteration or Maintenance of Boat Ramps and Associated Accessory Docks.

Rulemaking Authority 373.044, 373.113, 373.118, 373.171, 373.406 FS. Law Implemented 373.118, 373.406, 373.413, 373.416, 373.426 FS. History–New 10-3-95, Amended 4-14-03, 12-1-11, Repealed _____.

40E-400.427 General Permit for Certain Piers and Associated Structures.

Rulemaking Authority 373.044, 373.113, 373.118 FS. Law Implemented 373.118, 373.413, 373.416, 373.426 FS. History–New 10-3-95, Repealed _____.

40E-400.431 General Permit for Installation of Riprap.

Rulemaking Authority 373.044, 373.113, 373.118 FS. Law Implemented 373.118, 373.413, 373.416, 373.426 FS. History–New 10-3-95, Repealed _____.

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40E-400.437 General Permit for the Installation of Fences.

Rulemaking Authority 373.044, 373.113, 373.118 FS. Law Implemented 373.118, 373.413, 373.416, 373.426 FS. History–New 10-3-95, Repealed _____.

40E-400.439 General Permit for the Construction or Maintenance of Culverted Driveways or Roadway Crossings and Bridges of Artificial Waterways.

Rulemaking Authority 373.044, 373.113, 373.118 FS. Law Implemented 373.118, 373.413, 373.416, 373.426 FS. History–New 10-3-95, Repealed _____.

40E-400.443 General Permit for Minor Bridge Alteration, Replacement, Maintenance and Operation.

Rulemaking Authority 373.044, 373.113, 373.118 FS. Law Implemented 373.118, 373.413, 373.414, 373.416, 373.426 FS. History–New 10-3-95, Amended 9-9-07, 12-1-11, Repealed _____.

40E-400.447 General Permit for Minor Activities Within Existing Rights-of-Way or Easements.

Rulemaking Authority 373.044, 373.113, 373.118 FS. Law Implemented 373.118, 373.413, 373.414, 373.416, 373.426 FS. History–New 10-3-95, Amended 6-26-02, 9-9-07, 12-1-11, Repealed _____.

40E-400.453 General Permit for the Installation, Maintenance, Repair or Removal of Underground Cables, Conduits, or Pipelines.

Rulemaking Authority 373.044, 373.113, 373.118 FS. Law Implemented 373.118, 373.413, 373.416, 373.426 FS. History–New 10-3-95, Repealed _____.

40E-400.455 General Permit for the Construction of Aerial Pipeline, Cable, or Conduit Crossings of Certain Waters.

Rulemaking Authority 373.044, 373.113, 373.118 FS. Law Implemented 373.118, 373.413, 373.416, 373.426 FS. History–New 10-3-95, Repealed _____.

40E-400.457 General Permit for Subaqueous Utility Crossings of Artificial Waterways.

Rulemaking Authority 373.044, 373.113, 373.118 FS. Law Implemented 373.118, 373.413, 373.416, 373.426 FS. History–New 10-3-95, Repealed _____.

40E-400.463 General Permit for the Construction and Operation of Culverts and Associated Water Control Structures in Mosquito Control Impoundments by Governmental Mosquito Control Agencies.

Rulemaking Authority 373.044, 373.113, 373.118 FS. Law Implemented 373.118, 373.413, 373.416, 373.426 FS. History–New 10-3-95, Repealed _____.

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40E-400.467 General Permit for Breaching Mosquito Control Impoundments by Governmental Mosquito Control Agencies.

Rulemaking Authority 373.044, 373.113, 373.118, 373.171 FS. Law Implemented 373.118, 373.413, 373.416, 373.426 FS. History–New 10-3-95, Amended 4-14-03, Repealed _____.

40E-400.470 Noticed General Permit for Temporary Agricultural Activities.

Rulemaking Authority 373.044, 373.113, 373.118 FS. Law Implemented 120.60, 373.118, 373.119, 373.413, 373.416, 373.418, 373.423 FS. History–New 9-6-01, Amended 12-1-11, Repealed _____.

40E-400.475 General Permit for Minor Activities.

Rulemaking Authority 373.044, 373.113, 373.118, 668.003, 668.004, 668.50 FS. Law Implemented 373.118, 373.413, 373.416, 373.426, 668.003, 668.004, 668.50 FS. History–New 10-3-95, Amended 10-1-06, 12-1-11, Repealed _____.

40E-400.483 General Permit to the Department to Conduct Minor Activities.

Rulemaking Authority 373.044, 373.113, 373.118 FS. Law Implemented 373.118, 373.413, 373.416, 373.426 FS. History–New 10-3-95, Amended 4-14-03, Repealed _____.

40E-400.485 General Permit to the Department for Environmental Restoration or Enhancement Activities.

Rulemaking Authority 373.044, 373.113, 373.118, 373.171 FS. Law Implemented 373.118, 373.413, 373.416, 373.426 FS. History–New 10-3-95, Amended 4-14-03, Repealed _____.

40E-400.487 General Permit to the Department to Change Operating Schedules for Department or District Water Control Structures.

Rulemaking Authority 373.044, 373.113, 373.118 FS. Law Implemented 373.118, 373.416 FS. History–New 10-3-95, Amended 12-1-11, Repealed _____.

40E-400.495 General Permit to U.S. Forest Service for Minor Works within National Forests.

Rulemaking Authority 373.044, 373.113, 373.118 FS. Law Implemented 373.118, 373.413, 373.416, 373.426 FS. History–New 10-3-95, Repealed _____.

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Rulemaking Authority 373.044, 373.113, 373.118, 403.067(7)(d) FS. Law Implemented 373.118, 373.413, 373.416, 373.426, 403.067(7)(d) FS. History–New 10-3-95, Amended 12-1-

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40E-400.900 Forms and Instructions.

Rulemaking Authority 373.044, 373.113, 373.118 FS. Law Implemented 373.118, 373.413, 373.416, 373.426 FS. History–New 10-3-95, Repealed _____.

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Proposed 2013

ENVIRONMENTAL RESOURCE PERMIT APPLICANT'S HANDBOOK VOLUME II

FOR USE WITHIN THE GEOGRAPHIC LIMITS OF THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT

EFFECTIVE (insert date)

Volume II (including Appendices A, B, C and D)
is incorporated by reference in
Rule 40E-4.091(1)(a) and Chapter 62-330, F.A.C.

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~~BASIS OF REVIEW FOR~~ ENVIRONMENTAL RESOURCE PERMIT APPLICANT'S HANDBOOK VOLUME II FOR USE ~~APPLICATIONS~~ WITHIN THE GEOGRAPHIC LIMITS OF THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT

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PART 1 – INTRODUCTION, ORGANIZATION, APPLICABILITY

1.0 INTRODUCTION

This **Applicant's Handbook Volume II** accompanies Chapter 62-330, Fla. Admin. Code (F.A.C.), and the "**Environmental Resource Permit Applicant's Handbook Volume I (General and Environmental)**" **(Applicant's Handbook Volume I)**. **Applicant's Handbook Volume I** is applicable to all environmental resource permit applications, and provides background information on the environmental resource permit (ERP) program, including:

- Points of contact;
- A summary of the statutes and rules that are used to authorize and implement the ERP program;
- A summary of the types of permits, permit thresholds, and exemptions;
- Procedures used to review exemptions and permits;
- Conditions for issuance of an ERP, including the environmental criteria used for activities located in wetlands and other surface waters;
- Erosion and sediment control practices to prevent water quality violations; and
- Operation and maintenance requirements.

This Volume is designed to be applicable only to those ERP applications that involve the design of a stormwater management system that requires a permit as provided in Chapter 62-330, F.A.C., or Section 403.814(12) F.S. This volume also contains South Florida Water Management District (District) specific appendices for regionally-specific criteria such as basin maps for cumulative impact assessments (see Applicant's Handbook Volume I, Section 10.2.8), mitigation bank service area determination (refer to Chapter 62-342, F.A.C), and above ground impoundments.

Projects that qualify for a general permit in Section 403.814(12), F.S., are not regulated under Chapter 62-330, F.A.C. However, **Applicant's Handbook Volume II** contains design and performance standards that are relevant to the design of projects that qualify for that general permit.

This Volume provides specific, detailed water quality and quantity design and performance criteria for stormwater management systems regulated by the District through the ERP program authorized under Part IV of Chapter 373, F.S. This Volume explains, and provides more detail on, the rule criteria for stormwater quality and quantity contained in Chapter 62-330, F.A.C. In cases where conflicting or ambiguous

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interpretations of the information in this Volume result~~s~~ in uncertainty, the final determination of appropriate procedures to be followed will be made using Chapters 120 and 373, F.S., applicable F.A.C. rule chapters, and best professional judgment of Agency staff.

Both Applicant's Handbook Volumes I and II are adopted by reference in Chapter 62-330, F.A.C. Applicant's Handbook Volume II is also incorporated in Rule 40E-4.091, F.A.C. Both Applicant's Handbook Volumes I and II are rules of the Department and the District. The term "Agency," where used in this Volume, shall apply to the Department, the District, or a delegated local government, as applicable, in accordance with the division of responsibilities specified in the Operating Agreements incorporated by reference in subsection 62-330.010(5) and Rule 40E-4.091, F.A.C., except where a specific Agency is otherwise identified. Volume II applies whether an ERP application is processed and acted on by the Department, a District, or a delegated local government. The Handbooks are written to provide more detail and clarity to the public in understanding the statutory and rule provisions that implement the ERP program.

~~1.1 Objectives -~~

~~Under Part IV of Chapter 373, F.S., and Chapters 40E-4, 40E-40, and 40E-400, F.A.C., the District is responsible for the permitting of construction, alteration, operation, maintenance, removal and abandonment of surface water management systems within its jurisdictional boundaries. The objective of this document is to identify the permit review criteria and information used by District staff when reviewing permit applications. The objective of the permit application review process is to insure that the permit authorizes activities which are not harmful to the water resources of the District and are not inconsistent with water resource objectives of the District. This document has been adopted by reference in paragraph 40E-4.091(1)(a), F.A.C.~~

~~1.2 Application Review Process -~~

~~The District issues four types of environmental resource permits: conceptual approvals and individual permits pursuant to Chapter 40E-4, F.A.C., standard permits pursuant to Chapter 40E-40, F.A.C., and general permits (no notice or noticed) pursuant to Chapter 40E-400, F.A.C. Conceptual and individual mitigation bank permits are also types of environmental resource permit. Although the processes for these three permits differ administratively, District staff review submitted information in the same manner, using the same basic technical procedures.~~

~~1.2.1 Application Form~~

~~An applicant for an environmental resource individual, standard, or general permit for the construction, alteration, operation, maintenance, removal and abandonment of a surface water management system, including dredging and filling, shall supply all information identified in Rules 40E-4.101, 40E-40.112, or 40E-400.211, F.A.C., as~~

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~~applicable to the specific project. The District welcomes the submittal of any additional information which the applicant feels will assist the District with its review. Since review time is dependent on information sufficiency, it is to the applicant's benefit to timely submit information to allow application review to proceed without delay. District staff is available on request for non-binding, pre-application meetings to offer assistance in application preparation.~~

1.1 ~~1.3~~ Criteria Objectives

The criteria contained herein were established with the primary goal of meeting ~~District~~ water resource objectives as set forth in Part IV of Chapter 373, F.S. Performance criteria are used where possible. Other methods of meeting overall objectives of the District and which meet the conditions for issuance set forth in Rules 62-330.301 ~~40E-4.301~~ and 62-330.302 ~~40E-4.302~~, F.A.C., will be considered ~~by staff or presented to the District Governing Board, or its designee, for consideration~~. Compliance with the criteria herein constitutes a presumption that the project proposal is in conformance with the conditions for issuance set forth in Rules 62-330.301 ~~40E-4.301~~ and 62-330.302 ~~40E-4.302~~, F.A.C. Pursuant to Section 373.4131, F.S., if a stormwater management system is designed in accordance with the criteria in this Handbook or if a system is constructed, operated, and maintained for stormwater treatment in accordance with a valid Environmental Resource Permit or exemption under Part IV of Chapter 373, the discharges from the system are presumed not to violate applicable state water quality standards.

An applicant may propose alternative designs to those provided in this Volume for consideration by the Agency. However, reasonable assurance in the form of plans, test results, or other information must be provided by the applicant to demonstrate that the alternative design meets the conditions for issuance (Rules 62-330.301 and 62-330.302, F.A.C.).

1.2 District-Specific Thresholds

Within Miami-Dade County, an ERP is not required for the construction, alteration or operation of a stormwater water management system in uplands provided that system meets all of the conditions below:

1. The project area is less than 40 acres with positive stormwater outfall or the project area is less than 320 acres with less than 160 acres of impervious area, and no positive stormwater outfall;
2. The design plans and calculations are signed and sealed by a registered professional;
3. The system meets the criteria specified in Rules 62-330.301 and 62-330.302, F.A.C.; and
4. The system is not located in natural water bodies, wetlands, waters of the state, or an Outstanding Florida Water as listed in Rule 62-302.700, F.A.C.

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1.3 District-Specific Exemptions

There are no exemptions specific to the South Florida Water Management District geographical area. All applicable exemptions can be found in Rules 62-330.051-.0511, F.A.C.

~~1.4 Simultaneous Reviews -~~

~~It is recommended that the applicant seek simultaneous reviews from all federal, state, regional or local governmental agencies with jurisdiction over the proposed project. It is also in the best interest of the applicant to contact all interested and affected persons prior to submitting a formal environmental resource permit application. Advance communication facilitates the permitting process. The applicant is encouraged to submit summaries of meetings and copies of responses from interested persons with the application.~~

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PART II – GENERAL CRITERIA

2.0 General Criteria for all Stormwater Management Systems

This Volume applies to the design of stormwater management systems that require a permit under Chapter 62-330, F.A.C., or a general permit as provided under Section 403.814(12), F.S. Additional special basin criteria within SFWMD can be found in Chapter 40E-41, F.A.C (for Western C-9 Basin, Kissimmee River Basin, C-51 Basin, and the Water Preserve Area Basins of Palm Beach and Broward Counties), Chapter 40E-61 F.A.C (for the Lake Okeechobee Basin), and Chapter 40E-63, F.A.C (for the Everglades Agricultural Area).

2.1 Definitions ~~2.0 DEFINITIONS~~

The definitions set forth in Applicant's Handbook Volume I, Section 2.0(a) are applicable to Volume II.

2.1.1 "Agency" - The Department of Environmental Protection or South Florida Water Management District or a delegated local government, as applicable, in accordance with division of responsibilities specified in the Operating Agreements incorporated by reference in subsection 62-330.010(5), and Rule 40E-4.091, F.A.C.

~~**2.1 "Banker" -** An entity that creates, operates, manages, or maintains a Mitigation Bank pursuant to a Mitigation Bank Permit~~

2.1.2 ~~**2.2**~~ **"Control device" -** Element of a discharge structure which allows the gradual release of water under controlled conditions. It is s~~S~~ometimes referred to as the bleed-down mechanism, or "bleeder".

2.1.3 ~~**2.3**~~ **"Control elevation" -** The lowest elevation at which water can be released through the control device.

~~**2.4 "Creation" -** The establishment of new wetlands or surface waters by conversion of other land forms.~~

2.1.4 ~~**2.5**~~ **"Department" -** The Department of Environmental Protection.

2.1.5 ~~**2.6**~~ **"Detention" -** The delay of stormwater runoff prior to discharge into receiving waters.

2.1.6 ~~**2.7**~~ **"Detention volume" -** The volume of open surface storage behind the discharge structure between the overflow elevation and control elevation.

2.1.7 "District" - The South Florida Water Management District.

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~~**2.8 "Ecological Value" -** The value of functions performed by wetlands and other environmentally sensitive areas. These functions include providing habitat for wildlife, corridors for wildlife movement, food chain support, groundwater recharge, water storage and flow attenuation, and water quality enhancement.~~

2.1.8 ~~**2.9**~~ **"Elevation" -** Height in feet above mean sea level according to National Geodetic Vertical Datum (NGVD) or North American Vertical Datum 88 (NAVD).

2.1.9 Exfiltration trench - A subsurface retention system consisting of a conduit such as perforated pipe surrounded by natural or artificial aggregate which temporarily stores and infiltrates stormwater runoff.

~~**2.10 "Endangered species" -** Those animal species which are listed in Rule 68A-27.003, F.A.C. (as amended December 16, 2003), and those plant species which are listed as endangered in 50 C.F.R. 17.12 (as amended April 8, 2004), when such plants are found to be located in a wetland or other surface water.~~

~~**2.11 "Enhancement" -** Improving the ecological value of wetlands, other surface waters, or uplands that have been degraded in comparison to their historic condition.~~

~~**2.12 "Estuary" -** A semienclosed, naturally existing coastal body of water which has a free connection with the open sea and within which seawater is measurably diluted with fresh water derived from riverine systems.~~

~~**2.13 "Existing nesting or denning" -** As used in Section 4.2.7, means an upland site is currently being used for nesting or denning, or is expected, based on reasonable scientific judgement, to be used for such purposes based upon past nesting or denning at the site.~~

2.1.10 ~~**2.14**~~ **"Historic discharge" -** The peak rate at which runoff leaves a parcel of land by gravity in an undisturbed~~/~~natural state, or the legally allowable discharge in effect at the time of permit application.

2.1.11 ~~**2.15**~~ **"Impervious" -** Land surfaces which do not allow, or minimally allow, the penetration of water. Examples include building roofs, normal concrete and asphalt pavements, and some fine grained soils such as clays.

2.1.12 "Mean annual higher high tide" - The arithmetic mean of the higher high water elevations observed at a location or tidal station over the National Tidal Datum Epoch. Only the higher high water of each pair of high waters of the tidal day is included in the mean.

~~**2.16 "Isolated Wetland" -** Any wetland without a direct hydrologic connection to a lake, stream, estuary, or marine water.~~

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~~**2.17 "Lagoon"** - A naturally existing coastal zone depression which is below mean high water and which has permanent or ephemeral communications with the sea, but which is protected from the sea by some type of naturally existing barrier~~.

~~**2.18 "Listed Species"** - Those animal species which are endangered, threatened or of special concern and are listed in Rules 68A-27.003 (as amended December 16, 2003), 68A-27.004 (as amended May 15, 2008), and 68A-27.005, F.A.C. (as amended November 8, 2007), and those plant species listed in 50 Code of Federal Regulation 17.12 (as amended April 8, 2004), also incorporated by reference in paragraph 40E-4.091(1)(b), F.A.C., when such plants are found to be located in a wetland or other surface water.~~

~~**2.19 "Mitigation"** - An action or series of actions to offset the adverse impacts that would otherwise cause a regulated activity to fail to meet the criteria set forth in sections 4.2 and 4.2.8.2. Mitigation usually consists of restoration, enhancement, creation, preservation, or a combination thereof.~~

~~**2.20 "Mitigation Bank"** - A project undertaken to provide for the withdrawal of mitigation credits to offset adverse impacts.~~

~~**2.21 "Mitigation Bank Permit"** - A permit issued to a banker to construct, operate, manage and maintain a Mitigation Bank.~~

~~**2.22 "Mitigation Credit"** - A unit of measure which represents the increase in ecological value resulting from restoration, enhancement, preservation, or creation activities.~~

~~**2.23 "Mitigation Service Area"** - The geographic area within which Mitigation Credits from a Mitigation Bank may be used to offset adverse impacts of activities regulated under Part IV of Chapter 373, F.S.~~

~~**2.24 "Other Surface Waters"** - Means surface waters as described and delineated pursuant to Section 62-340.600, F.A.C., as ratified by Section 373.4211, F.S., other than wetlands.~~

2.1.13 ~~**2.25**~~ **"Overflow elevation" -** Design elevation of a discharge structure at which, or below which, water is contained behind the structure, except for that which leaks out, or bleeds out, through a control device down to the control elevation.

~~**2.26 "Preservation"** - The protection of wetlands, other surface waters or uplands from adverse impacts by placing a conservation easement or other comparable land use restriction over the property or by donation of fee simple interest in the property.~~

~~**2.27 "Regional Watershed"** - As used in subsection 4.4, a regional watershed means a watershed as delineated in Figure 4.4-1.~~

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2.1.14 ~~**2.28**~~ **"Regulated activity" -** The construction, alteration, operation, maintenance, abandonment or removal of a surface water management system, including dredging and filling, regulated pursuant to Part IV, Chapter 373, F.S.

~~**2.29 "Restoration"** - Converting back to a historic condition those wetlands, surface waters, or uplands which currently exist as a land form which differs from the historic condition.~~

2.1.15 ~~**2.30**~~ **"Retention" -** The prevention of stormwater runoff from direct discharge into receiving waters.~~; included as~~ Eexamples include ~~are~~ systems which discharge through percolation, exfiltration, filtered bleed-down and evapotranspiration processes.

2.1.16 ~~**2.31**~~ **"Retention/detention area (dry)" -** Water storage area with bottom elevation at least one foot above the control elevation of the area. Sumps, mosquito control swales and other minor features may be at a lower elevation.

2.1.17 ~~**2.32**~~ **"Retention/detention area (wet)" -** A water storage area with bottom elevation lower than one foot above the control elevation of the area.

~~**2.33 "Seawall"** - A manmade wall or encroachment, except riprap, which is made to break the force of waves and to protect the shore from erosion.~~

~~**2.34 "Species of Special Concern"** - Those animal species listed in Rule 68A-27.005, F.A.C.~~

2.1.18 ~~**2.35**~~ **"Staff Report" -** A written report prepared by Agency ~~District~~ s~~S~~taff ~~advising the Governing Board, or its designee, of~~ setting forth staff's ~~its~~ conclusions and recommendations based on review of an application. The description of the project in the S~~s~~taff R~~r~~eport shall take precedence over application data contained in Agency ~~District~~ permit files, since numerous project changes are often made by applicants during application processing, the results of which may only be reflected in the S~~s~~taff R~~r~~eport. ~~Staff reports may be prepared for general permits. In addition,~~ S~~s~~taff R~~r~~eports serve as notice of proposed agency action.

2.1.19 "State water quality standards" – Water quality standards adopted pursuant to Chapter 403, F.S. [Section 373.403(11), F.S.], including standards composed of designated most beneficial uses (classification of waters), the numerical and narrative criteria applied to the specific water use or classification, the Florida anti-degradation policy (Rules 62-4.242, 62-302.300, F.A.C.), and the moderating provisions contained in Chapters 62-4 (5/9/2013) http://www.flrules.org/Gateway/reference.asp?No=00034, 62-302 (12/20/2012) http://www.flrules.org/Gateway/reference.asp?=No00035, 62-520 (7/12/2009) http://www.flrules.org/Gateway/reference.asp?=No00036, and 62-550, F.A.C. (2/16/2012) http://www.flrules.org/Gateway/reference.asp?=No00038. Incorporated by reference herein and in Rule 40E-4.091, F.A.C. Copies of Chapters 62-

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4, 62-302, 62-520 and 62-550, F.A.C., are available at no cost by contacting the South Florida Water Management District Clerk's Office, 3301 Gun Club Road, West Palm Beach, FL 33406 (800) 432-2045, ext. 2087, or (561) 682-2087.

2.1.20 ~~**2.36**~~ **"Surface Water Management System" or "System" -** A stormwater management system, dam, impoundment, reservoir, appurtenant work or works, or any combination thereof. The terms "surface water management system" or ~~of~~ "system" include areas of dredging or filling as defined by Section 373.403(13) and (14), F.S., respectively.

2.1.21 "Tailwater" - The receiving water elevation (or pressure) at the final discharge point of the stormwater management system.

~~**2.37 "Threatened species"** - Those animal species listed in Rule 68A-27.004 (as amended May 15, 2008), F.A.C., and those plant species which are listed as threatened in 50 Code of Federal Regulations 17.12 (as amended April 8, 2004), when such plants are found to be located in a wetland or other surface water.~~

2.1.22 ~~**2.38**~~ **"Water management areas" -** Areas to be utilized for the conveyance, treatment or storage of stormwater ~~storm water~~.

2.1.23 "Wet detention systems" - Permanently wet ponds which are designed to slowly release collected stormwater runoff through an outlet structure.

~~**2.39 "Wetlands"** - Those areas that are inundated or saturated by surface water or ground water at a frequency and a duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soils. Soils present in wetlands generally are classified as hydric or alluvial, or possess characteristics that are associated with reducing soil conditions. The prevalent vegetation in wetlands generally consists of facultative or obligate hydrophytic macrophytes that are typically adapted to areas having soil conditions described above. These species, due to morphological, physiological, or reproductive adaptation, have the ability to grow, reproduce, or persist in aquatic environments or anaerobic soil conditions. Florida wetlands generally include swamps, marshes, bayheads, bogs, cypress domes and strands, sloughs, wet prairies, riverine swamps and marshes, hydric seepage slopes, tidal marshes, mangrove swamps and other similar areas. Florida wetlands generally do not include longleaf or slash pine flatwoods with an understory dominated by saw palmetto. The landward extent of wetlands shall be delineated pursuant to Sections 62-340.100 through 62-340.550, F.A.C., as ratified by Section 373.4211, F.S.~~

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2.2 Professional Certification

All construction plans and supporting calculations submitted to the Agency for surface water management systems that require the services of a registered professional must be signed, sealed, and dated by a registered professional.

~~3.0 GENERAL REVIEW REQUIREMENTS~~

~~3.1 Development of Regional Impact -~~

~~Projects which are or presumptively may be a Development of Regional Impact (DRI) pursuant to Section 380.0651, F.S., may not in all cases meet local government DRI requirements. Therefore, it is strongly recommended that the applicant procure a final approved Development Order (DO) issued by the affected local government prior to initiating permitting proceedings with the District. Exceptions to this recommendation occur in the following situations:~~

~~(a) When the applicant has a signed Preliminary Development Agreement with the Florida Department of Community Affairs which allows a specified portion of the proposed development to proceed prior to the issuance of a DO, pursuant to Section 380.06(8), F.S., or~~

~~(b) When the applicant has received a Binding Letter of Interpretation Determination from the Florida Department of Community Affairs which finds that the project is not required to comply with the DRI review requirements of Section 380.06, F.S., or~~

~~(c) When the applicant has applied for conceptual agency review pursuant to Section 380.06(9), F.S., concurrently with the filing of a DRI Application for Development Approval (ADA) and any applicable Local Government Comprehensive Plan amendments pursuant to Section 380.06(9), F.S.~~

2.3 ~~3.2~~ Water and Wastewater Service and Concurrent Processing

(a) Potable water, irrigation and wastewater facilities must be identified. An applicant for an environmental resource permit must provide documentation ~~information~~ on how these services are to be provided. If wastewater disposal is accomplished on-site, additional information shall be requested regarding separation of waste and stormwater ~~surface water~~ management systems.

(b) For environmental resource permits, if on-site consumptive water use withdrawals are also proposed for which a District water use permit is required, the environmental resource and water use permits must be processed simultaneously. These requirements are dependent upon site

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specific water resource limitations. It is recommended that the applicant contact Agency ~~District~~ staff prior to filing an application to determine whether the proposed project necessitates simultaneous environmental resource and water use permitting.

2.4 Retrofits of Existing Stormwater Management Systems

(a) A stormwater retrofit project is typically proposed by a county, municipality, state agency, or water management district to provide new or additional treatment or attenuation capacity, or improved flood control to an existing stormwater management system or systems. Stormwater retrofit projects shall not be proposed or implemented for the purpose of providing the water quality treatment or flood control needed to serve new development or redevelopment.

Example components of stormwater retrofit projects are:

1. Construction or alteration that will add additional treatment or attenuation capacity and capability to an existing stormwater management system;

2. Modification, reconstruction, or relocation of an existing stormwater management system or stormwater discharge facility;

3. Stabilization of eroding banks through measures such as adding attenuation capacity to reduce flow velocities, planting of sod or other vegetation, and installation of rip rap boulders ;

4. Excavation or dredging of sediments or other pollutants that have accumulated as a result of stormwater runoff and stormwater discharges.

(b) Stormwater Quality Retrofits

1. The applicant for a stormwater quality retrofit project must provide reasonable assurance that the retrofit project itself will, at a minimum provide additional water quality treatment such that there is a net reduction of the stormwater pollutant loading into receiving waters. Examples are:

a. Addition of treatment capacity to an existing stormwater management system such that it reduces ~~stormwater pollutant~~ loadings of stormwater pollutants of concern to receiving waters;

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b. Adding treatment or attenuation capability to an existing developed area when either the existing stormwater management system or the developed area has substandard stormwater treatment and attenuation capabilities, compared to what would be required for a new system requiring a permit under Part IV of Chapter 373, F.S.; or

c. Removing pollutants generated by, or resulting from, previous stormwater discharges.

2. If the applicant has conducted, and the Agency has approved, an analysis that provides reasonable assurance that the proposed stormwater quality retrofit will provide the intended pollutant load reduction from the existing system or systems, the project will be presumed to comply with the requirements in Part IV of this Volume.

3. The pollutants of concern will be determined on a case-by-case basis during the permit application review based upon factors such as the type and intensity of land use, existing water quality data within the area subject to the retrofit, and the degree of impairment or water quality violations in the receiving waters.

(c) Stormwater Quantity (Flood Control) Retrofits

The applicant for a stormwater quantity retrofit project must provide reasonable assurance that the retrofit project will reduce existing flooding problems in such a way that it does not cause any of the following:

1. A net reduction in water quality treatment provided by the existing stormwater management system or systems;

2. Increased discharges of untreated stormwater entering adjacent or receiving waters;

If the applicant has conducted, and the Agency has approved, an analysis that provides reasonable assurance that the stormwater quantity retrofit project will comply with the above, the project will be presumed to comply with the requirements in Part III of this Volume.

(d) The applicant for any stormwater retrofit project must design, construct, ~~implement, and~~ operate, and maintain the project so that it:

1. Will not cause or contribute to a water quality violation;

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2. Does not reduce stormwater treatment capacity or increase discharges of untreated stormwater. Where existing ambient water quality does not meet water quality standards the applicant must demonstrate that the proposed activities will not cause or contribute to a water quality violation. If the proposed activities will contribute to the existing violation, measures shall be proposed that will provide a net improvement of the water quality in the receiving waters for those parameters that do not meet standards.

3. Does not cause any adverse water quality impacts in receiving waters; or

4. Will not cause or contribute to increased flooding of adjacent lands or cause new adverse water quantity impacts to receiving waters.

2.5 Flexibility for State Transportation Projects and Facilities

With regard to state linear transportation projects and facilities the Agencies shall be governed by subsection 373.413(6), F.S. (2012).

~~3.3 Phased Projects –~~

~~Projects which are to be developed in phases will require the submission of a master plan of the applicant's contiguous land holdings. The primary interest of the District is to insure continuity between phases, satisfactory completeness of individual phases should the project be incomplete as planned, and preservation of adjacent property owners' rights. This includes adjacent property owners created by the sale of incomplete phases. See Rule 40E-4.305, F.A.C., for further information regarding conceptual approval permits.~~

~~3.4 Pre-Application Meetings –~~

~~Pre-application meetings are encouraged, as are submissions of explanatory information such as site plans, topographic information, vegetation maps and soils information, which may be useful to the Staff in their preliminary review. Staff representations made at pre-application meetings are not binding on the District.~~

~~4.0 ENVIRONMENTAL CRITERIA~~

~~It is the intent of the Governing Board that the criteria in subsections 4.2 through 4.3.8 be implemented in a manner which achieves a programmatic goal, and a project permitting goal, of no net loss in wetland and other surface water functions. This goal shall not include projects that are exempt by statute or rule, or which are authorized by a noticed general permit. Unless exempt by statute or rule, permits are required for the construction, alteration, operation, maintenance, abandonment and removal of systems~~

~~so that the District can conserve the beneficial functions of these wetlands or other surface waters.~~

~~4.1 Wetlands and other Surface Waters -~~

~~Wetlands are important components of the water resource because they often serve as spawning, nursery and feeding habitats for many species of fish and wildlife, and because they often provide important flood storage, nutrient cycling, detrital production, recreational and water quality functions. Other surface waters such as lakes, ponds, reservoirs, other impoundments, streams, rivers and estuaries also often provide such functions, and in addition may provide flood conveyance, navigation and water supply functions to the public. Not all wetlands or other surface waters provide all of these functions, nor do they provide them to the same extent. A wide array of biological, physical and chemical factors affect the functioning of any wetland or other surface water community. Maintenance of water quality standards in applicable wetlands and other surface waters is critical to their ability to provide many of these functions.~~

~~Unless exempted by statute or rule, permits are required for the construction, alteration, operation, maintenance, abandonment and removal of systems so that the District can conserve the beneficial functions of these communities. The term "systems" includes dredged or filled areas. When used in section 4.0 of the Basis of Review, "wetlands and other surface waters" means those areas as delineated pursuant to the methodology in Chapter 62-340, F.A.C. as ratified in section 373.4211, F.S., and incorporated by reference in paragraph 40E-4.091(1)(g), F.A.C.~~

~~4.1.1 Environmental Conditions for Issuance~~

~~The District addresses the conservation of these beneficial functions in the permitting process by requiring applicants to provide reasonable assurances that the following conditions for issuance of permits, set forth in Rules 40E-4.301 and 40E-4.302, F.A.C., are met. Applicants must provide reasonable assurance that:~~

~~(a) A regulated activity will not adversely impact the value of functions provided to fish and wildlife and listed species by wetlands and other surface waters (paragraph 40E-4.301(1)(d), F.A.C.)(see subsection 4.2.2);~~

~~(b) A regulated activity located in, on, or over wetlands or other surface waters, will not be contrary to the public interest, or if such an activity significantly degrades or is located within an Outstanding Florida Water, that the regulated activity will be clearly in the public interest (paragraph 40E-4.302(1)(a), F.A.C.) (see subsections 4.2.3 through 4.2.3.7);~~

~~(c) A regulated activity will not adversely affect the quality of receiving waters such that the water quality standards set forth in chapters 62-4, 62-302, 62-520, 62-522, and 62-550, F.A.C., including any anti-degradation~~

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~~provisions of paragraphs 62-4.242(1)(a) and (b), subsections 62-4.242(2) and (3), and Rule 62-302.300, F.A.C., and any special standards for Outstanding Florida Waters and Outstanding National Resource Waters set forth in subsections 62-4.242(2) and (3), F.A.C., will be violated (paragraph 40E-4.301(1)(e), F.A.C.).~~

~~(d) A regulated activity located in, adjacent to or in close proximity to Class II waters or located in waters classified by the Department as approved, restricted, or conditionally restricted for shellfish harvesting as set forth in Chapter 5L-1, F.A.C., will comply with the additional criteria in subsection 4.2.5 of the Basis of Review (paragraph 40E-4.302(1)(c), F.A.C.;~~

~~(e) The construction of vertical seawalls in estuaries and lagoons will comply with the additional criteria in subsection 4.2.6 of the Basis of Review; (paragraph 40E-4.302(1)(d), F.A.C.)~~

~~(f) A regulated activity will not cause adverse secondary impacts to the water resources (paragraph 40E-4.301(1)(f), F.A.C.) (see subsection 4.2.7);~~

~~(g) A regulated activity will not cause unacceptable cumulative impacts upon wetlands and other surface waters (paragraph 40E-4.302(1)(b), F.A.C.) (see subsections 4.2.8 through 4.2.8.2);~~

~~4.2 Environmental Review Criteria –~~

~~Compliance with the conditions for issuance in subsection 4.1.1 will be determined through compliance with the criteria explained in subsections 4.2 - 4.3.8 of this Basis of Review.~~

~~4.2.1 Elimination or Reduction of Impacts~~

~~The degree of impact to wetland and other surface water functions caused by a proposed system, whether the impact to these functions can be mitigated and the practicability of design modifications for the site, as well as alignment alternatives for a proposed linear system, which could eliminate or reduce impacts to these functions, are all factors in determining whether an application will be approved by the District. Design modifications to reduce or eliminate adverse impacts must be explored, as described in subsection 4.2.1.1. Any adverse impacts remaining after practicable design modifications have been implemented may be offset by mitigation as described in subsections 4.3 – 4.3.8. An applicant may propose mitigation, or the District may suggest mitigation, to offset the adverse impacts caused by regulated activities as identified in sections 4.2 - 4.2.8.2. To receive District approval, a system cannot cause a net adverse impact on wetland functions and other surface water functions which is not offset by mitigation.~~

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~~**4.2.1.1** Except as provided in subsection 4.2.1.2, if the proposed system will result in adverse impacts to wetland functions and other surface water functions such that it does not meet the requirements of sections 4.2.2 through 4.2.3.7, then the District in determining whether to grant or deny a permit shall consider whether the applicant has implemented practicable design modifications to reduce or eliminate such adverse impacts.~~

~~The term "modification" shall not be construed as including the alternative of not implementing the system in some form, nor shall it be construed as requiring a project that is significantly different in type or function. A proposed modification which is not technically capable of being done, is not economically viable, or which adversely affects public safety through the endangerment of lives or property is not considered "practicable". A proposed modification need not remove all economic value of the property in order to be considered not "practicable". Conversely, a modification need not provide the highest and best use of the property to be "practicable". In determining whether a proposed modification is practicable, consideration shall also be given to the cost of the modification compared to the environmental benefit it achieves.~~

~~**4.2.1.2** The District will not require the applicant to implement practicable design modifications to reduce or eliminate impacts when:~~

~~(a) The ecological value of the function provided by the area of wetland or other surface water to be adversely affected is low based on site specific analysis using the factors in subsection 4.2.2.3, and the proposed mitigation will provide greater long term ecological value than the area of wetland or other surface water to be adversely affected, or~~

~~(b) The applicant proposes mitigation that implements all or part of a plan that provides regional ecological value and that provides greater long term ecological value than the area of wetland or other surface water to be adversely affected.~~

~~**4.2.1.3** Should such mutual consideration of modification and mitigation not result in a permittable system, the District must deny the application. Nothing herein shall imply that the District may not deny an application for a permit as submitted or modified, if it fails to meet the conditions for issuance, or that mitigation must be accepted by the District.~~

~~**4.2.2 Fish, Wildlife, Listed Species and their Habitats**~~

~~Pursuant to paragraph 4.1.1(a), an applicant must provide reasonable assurances that a regulated activity will not impact the values of wetland and other surface water functions so as to cause adverse impacts to:~~

~~(a) The abundance and diversity of fish, wildlife and listed species; and~~

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~~(b) The habitat of fish, wildlife and listed species.~~

~~In evaluating whether an applicant provided reasonable assurances under subsection 4.2.2, deminimis effects shall not be considered adverse impacts for the purposes of this subsection.~~

~~As part of the assessment of the impacts of regulated activities upon fish and wildlife and their habitats, the District will provide a copy of all notices of applications for standard, general, individual, and conceptual approval permits which propose regulated activities in, on or over wetlands or other surface waters to the Florida Fish and Wildlife Conservation Commission for review and comment. In addition, the District staff may solicit comments from the Florida Fish and Wildlife Conservation Commission regarding other applications to assist in the assessment of potential impacts to wildlife and their habitats, particularly with regard to listed wildlife species. Where proposed activities have a potential to impact listed marine species, the District will provide a copy of the above-referenced types of applications to the Department of Environmental Protection, Office of Protected Species.~~

~~The need for a wildlife survey will depend upon the likelihood that the site is used by listed species, considering site characteristics and the range and habitat needs of such species, and whether the proposed system will impact that use such that the criteria in subsection 4.2.2 -4.2.2.3 and subsection 4.2.7 will not be met. As part of assessing the likelihood of use of a site by listed species, the District will consult scientific literature. Survey methodologies employed to inventory the site must provide reasonable assurances regarding the presence or absence of the subject listed species.~~

~~**4.2.2.1** Compliance with subsections 4.2.2 - 4.2.3.7, 4.2.5 - 4.3.8 will not be required for regulated activities in isolated wetlands less than one half acre in size, unless:~~

~~(a) The wetland is used by threatened or endangered species.~~

~~(b) The wetland is located in an area of critical state concern designated pursuant to Chapter 380, F.S., or~~

~~(c) The wetland is connected by standing or flowing surface water at seasonal high water level to one or more wetlands, and the combined wetland acreage so connected is greater than one half acre.~~

~~(d) The District establishes that the wetland to be impacted is, or several such wetlands to be impacted are, cumulatively, of more than minimal value to fish and wildlife based on the factors in subsection 4.2.2.3.~~

~~**4.2.2.2** Alterations in wholly owned ponds that were completely constructed in uplands and which are less than one acre in area and alterations in drainage ditches that were~~

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~~constructed in uplands will not be required to comply with the provisions of subsections 4.2.2 -4.2.2.3, 4.2.3 - 4.2.3.7, 4.2.5 - 4.3.8 unless those ponds or ditches provide significant habitat for threatened or endangered species. This means that, except in cases where those ponds or ditches provide significant habitat for threatened or endangered species, the only environmental criteria that will apply to those ponds or ditches are those included in subsections 4.2.4 - 4.2.4.5 and 4.2.2.4. This provision shall only apply to those ponds and ditches which were constructed before a permit was required under Part IV, Chapter 373, F.S. or were constructed pursuant to a permit under Part IV, Chapter 373, F.S. This provision does not apply to ditches constructed to divert natural stream flow.~~

~~**4.2.2.3** The assessment of impacts expected as a result of proposed activities on the values of functions that any wetland or other surface water provides to fish, wildlife, and listed species will be based on a review of pertinent scientific literature, ecologic and hydrologic information, and field inspection. When assessing the value of such functions, the factors which the District will consider are:~~

~~(a) Condition - this factor addresses whether the wetland or other surface water is in a high quality state or has been the subject of past alterations in hydrology, water quality, or vegetative composition. However, areas impacted by activities in violation of a District or Department rule, order, or permit adopted or issued pursuant to Chapter 373, F.S. or Part VIII, Chapter 403, F.S. (1984, as amended), will be evaluated as if the activity had not occurred.~~

~~(b) Hydrologic connection - this factor addresses the nature and degree of off-site connection which may provide benefits to off-site water resources through detrital export, base flow maintenance, water quality enhancement or the provision of nursery habitat.~~

~~(c) Uniqueness - this factor addresses the relative rarity of the wetland or other surface water and its floral and faunal components in relation to the surrounding regional landscape.~~

~~(d) Location - this factor addresses the location of the wetland or other surface water in relation to its surroundings. In making this assessment, the District will consult reference materials such as the Florida Natural Areas Inventory, Local Government Comprehensive Plans, and maps created by governmental agencies identifying lands with high ecological value.~~

~~(e) Fish and wildlife utilization - this factor addresses use of the wetland or other surface water for resting, feeding, breeding, nesting or denning by fish and wildlife, particularly those which are listed species.~~

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~~**4.2.2.4** Pursuant to paragraph 4.1.1(a), an applicant must provide reasonable assurance that the regulated activity will not change the hydroperiod of a wetland or other surface water, so as to adversely affect wetland functions or other surface water functions as follows:~~

~~(a) Whenever portions of a system, such as constructed basins, structures, stormwater ponds, canals, and ditches, are reasonably expected to have the effect of reducing the depth, duration or frequency of inundation or saturation in a wetland or other surface water, the applicant must perform an analysis of the drawdown in water levels or diversion of water flows resulting from such activities and provide reasonable assurance that these drawdowns or diversions will not adversely impact the functions that wetlands and other surface waters provide to fish and wildlife and listed species.~~

~~(b) Increasing the depth, duration, or frequency of inundation through changing the rate or method of discharge of water to wetlands or other surface waters or by impounding water in wetlands or other surface waters must also be addressed to prevent adverse effects to functions that wetlands and other surface waters provide to fish and wildlife and listed species. Different types of wetlands respond differently to increased depth, duration, or frequency of inundation. Therefore, the applicant must provide reasonable assurance that activities that have the potential to increase discharge or water levels will not adversely affect the functioning of the specific wetland or other surface water subject to the increased discharge or water level.~~

~~(c) Whenever portions of a system could have the effect of altering water levels in wetlands or other surface waters, applicants shall be required to: monitor the wetland or other surface waters to demonstrate that such alteration has not resulted in adverse impacts; or calibrate the system to prevent adverse impacts. Monitoring parameters, methods, schedules, and reporting requirements shall be specified in permit conditions.~~

~~**4.2.3 Public Interest Test**~~

~~In determining whether a regulated activity located in, on, or over surface waters or wetlands is not contrary to the public interest, or if such an activity significantly degrades or is within an Outstanding Florida Water, that the regulated activity is clearly in the public interest, the District shall consider and balance, and an applicant must address, the following criteria:~~

~~(a) Whether the regulated activity will adversely affect the public health, safety, or welfare or the property of others (subparagraph 40E-4.302(1)(a)1., F.A.C.);~~

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~~(b) Whether the regulated activity will adversely affect the conservation of fish and wildlife, including endangered or threatened species, or their habitats (subparagraph 40E-4.302(1)(a)2., F.A.C.);~~

~~(c) Whether the regulated activity will adversely affect navigation or the flow of water or cause harmful erosion or shoaling (subparagraph 40E-4.302(1)(a)3., F.A.C.);~~

~~(d) Whether the regulated activity will adversely affect the fishing or recreational values or marine productivity in the vicinity of the activity (subparagraph 40E-4.302(1)(a)4., F.A.C.);~~

~~(e) Whether the regulated activity will be of a temporary or permanent nature (subparagraph 40E-4.302(1)(a)5., F.A.C.);~~

~~(f) Whether the regulated activity will adversely affect or will enhance significant historical and archaeological resources under the provisions of section 267.061, F.S. (subparagraph 40E-4.302(1)(a)6., F.A.C.); and~~

~~(g) The current condition and relative value of functions being performed by areas affected by the proposed regulated activity (subparagraph 40E-4.302(1)(a)7., F.A.C.).~~

~~**4.2.3.1** Public Health, Safety, or Welfare or the Property of Others. In reviewing and balancing the criterion regarding public health, safety, welfare and the property of others in paragraph 4.2.3(a), the District will evaluate whether the regulated activity located in, on, or over wetlands or other surface waters will cause:~~

~~(a) An environmental hazard to public health or safety or improvement to public health or safety with respect to environmental issues. Each applicant must identify potential environmental public health or safety issues resulting from their project. Examples of these type of issues include: mosquito control; proper disposal of solid, hazardous, domestic or industrial waste; aids to navigation; hurricane preparedness or cleanup; environmental remediation, enhancement or restoration; and similar environmentally related issues. For example, the installation of navigational aids may improve public safety and may reduce impacts to public resources.~~

~~(b) Impacts to areas classified by the Department as approved, conditionally approved, restricted or conditionally restricted for shellfish harvesting. Activities which would cause closure or a more restrictive classification or management plan for a shellfish harvesting area would result in a negative factor in the public interest balance with respect to this criterion.~~

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~~(c) Flooding or alleviate existing flooding on the property of others. There is at least a neutral factor in the public interest balance with respect to the potential for causing or alleviating flooding problems if the applicant meets the water quantity criteria in section six of this Basis of Review.~~

~~(d) Environmental impacts to the property of others. For example, the construction of a ditch that results in drawdown impacts to a wetland on an adjacent property would be an environmental impact to the property of others. The District will not consider impacts to property values or taxes.~~

~~4.2.3.2 Fish and Wildlife and their Habitats~~

~~The District's public interest review of that portion of a proposed system in, on, or over wetlands and other surface waters for impacts to "the conservation of fish and wildlife, including endangered or threatened species, or their habitats" is encompassed within the required review of the entire system under subsection 4.2.2. An applicant must always provide the reasonable assurances required under subsection 4.2.2.~~

~~4.2.3.3 Navigation, Water Flow, Erosion and Shoaling~~

~~In reviewing and balancing the criterion on navigation, erosion and shoaling in paragraph 4.2.3(c), the District will evaluate whether the regulated activity located in, on or over wetlands or other surface waters will:~~

~~(a) Significantly impede navigability or enhance navigability. The District will consider the current navigational uses of the surface waters and will not speculate on uses which may occur in the future. Applicants proposing to construct bridges or other traversing works must address adequate horizontal and vertical clearance for the type of watercraft currently navigating the surface waters. Applicants proposing to construct docks, piers and other works which extend into surface waters must address the continued navigability of these waters. An encroachment into a marked or customarily used navigation channel is an example of a significant impediment to navigability. Applicants proposing temporary activities in navigable surface waters, such as the mooring of construction barges, must address measures for clearly marking the work as a hazard to navigation, including nighttime lighting. The addition of navigational aids may be beneficial to navigation. If an applicant has a U.S. Coast Guard permit issued pursuant to 14 U.S.C. Section 81 (1993), 33 C.F.R. Section 62 (1993) for a regulated activity in, on or over wetlands or other surface waters, submittal of this permit with the application may assist the applicant in addressing this criterion.~~

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~~(b) Cause or alleviate harmful erosion or shoaling. Applicants proposing activities such as channel relocation, artificial reefs, construction of jetties, breakwaters, groins, bulkheads and beach renourishment must address existing and expected erosion or shoaling in the proposed design. Each permit will have a general condition which requires applicants to utilize appropriate erosion control practices and to correct any adverse erosion or shoaling resulting from the regulated activities.~~

~~(c) Significantly impact or enhance water flow. Applicants must address obstructions to sheet flow by assessing the need for structures which minimize the obstruction such as culverts or spreader swales in fill areas. Compliance with the water quantity criteria found in subsection 4.2.2.4 shall be an important consideration in addressing this criterion.~~

~~4.2.3.4 Fisheries, Recreation, Marine Productivity~~

~~In reviewing and balancing the criterion regarding fishing or recreational values and marine productivity in paragraph 4.2.3(d), the District will evaluate whether the regulated activity in, on, or over wetlands or other surface waters will cause:~~

~~(a) Adverse effects to sport or commercial fisheries or marine productivity. Examples of activities which may adversely affect fisheries or marine productivity are the elimination or degradation of fish nursery habitat, and change in ambient water temperature, change in normal salinity regime, reduction in detrital export, change in nutrient levels or other adverse affects on populations of native aquatic organisms.~~

~~(b) Adverse effects or improvements to existing recreational uses of a wetland or other surface water. Wetlands and other surface waters may provide recreational uses such as boating, fishing, swimming, skiing, hunting and birdwatching. An example of potential adverse effects to recreational uses is the construction of a traversing work, such as a road crossing a waterway, which could impact the current use of the waterway for waterskiing and boating.~~

~~4.2.3.5 Temporary or Permanent Nature~~

~~When evaluating the other criteria in subsection 4.2.3, the District will consider the frequency and duration of the impacts caused by the proposed activity. Temporary impacts will be considered less harmful than permanent impacts of the same nature and extent.~~

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~~4.2.3.6 Historical and Archaeological Resources~~

~~In reviewing and balancing the criterion regarding historical and archaeological resources in paragraph 4.2.3(f), the District will evaluate whether the regulated activity located in, on, or over wetlands or other surface waters will impact significant historical or archaeological resources. The District will provide copies of all conceptual, individual, standard and general permit applications to the Division of Historical Resources of the Department of State and solicit their comments regarding whether the regulated activity may adversely affect significant historical or archaeological resources. The applicant will be required to perform an archaeological survey and to develop and implement a plan as necessary to demarcate and protect the significant historical and archaeological resources, if such resources are reasonably expected to be impacted by the regulated activity.~~

~~4.2.3.7 Current Condition and Relative Value of Functions~~

~~When evaluating other criteria in subsection 4.2.3, the District will consider the current condition and relative value of the functions performed by wetlands and other surface waters affected by the proposed regulated activity. Wetlands and other surface waters which have had their hydrology, water quality or vegetative composition permanently impacted due to past legal alterations or occurrences, such as infestation with exotic species, usually provide lower habitat value to fish and wildlife. However, if the wetland or other surface water is currently degraded, but is still providing some beneficial functions, consideration will be given to whether the regulated activity will further reduce or eliminate those functions. The District will also evaluate the predicted ability of the wetlands or other surface waters to maintain their current functions as part of the proposed system once it is developed. Where previous impacts to a wetland or other surface water are temporary in nature, consideration will be given to the inherent functions of these areas, relative to seasonal hydrologic changes, and expected vegetative regeneration and projected habitat functions if the use of the subject property were to remain unchanged. When evaluating impacts to mitigation sites which have not reached success pursuant to subsection 4.3.6, the District shall consider the functions that the mitigation site was intended to offset, and any additional delay or reduction in offsetting those functions that may be caused by impacting the mitigation site. Previous construction or alteration undertaken in violation of Chapter 373, F.S., or District rule, order or permit will not be considered as having diminished the condition and relative value of a wetland or other surface water.~~

~~4.2.4 Water quality~~

~~Pursuant to paragraph 4.1.1(c), an applicant must provide reasonable assurance that the regulated activity will not violate water quality standards in areas where water quality standards apply.~~

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~~Reasonable assurances regarding water quality must be provided both for the short term and the long term, addressing the proposed construction, alteration, operation, maintenance, removal and abandonment of the system. The following requirements are in addition to the water quality requirements found in section five of this Basis of Review.~~

~~4.2.4.1 Short Term Water Quality Considerations~~

~~The applicant must address the short term water quality impacts of a proposed system, including:~~

~~(a) Providing turbidity barriers or similar devices for the duration of dewatering and other construction activities in or adjacent to wetlands or other surface waters.~~

~~(b) Stabilizing newly created slopes or surfaces in or adjacent to wetlands and other surface waters to prevent erosion and turbidity.~~

~~(c) Providing proper construction access for barges, boats and equipment to ensure that propeller dredging and rutting from vehicular traffic does not occur.~~

~~(d) Maintaining construction equipment to ensure that oils, greases, gasoline, or other pollutants are not released into wetlands or other surface waters.~~

~~(e) Controlling the discharge from spoil disposal sites.~~

~~(f) Preventing any other discharge or release of pollutants during construction or alteration that will cause water quality standards to be violated.~~

~~4.2.4.2 Long Term Water Quality Considerations~~

~~The applicant must address the long term water quality impacts of a proposed system, including:~~

~~(a) The potential of a constructed or altered water body to violate water quality standards due to its depth or configuration. For example, the depth of water bodies must be designed to insure proper mixing so that the water quality standard for dissolved oxygen will not be violated in the lower levels of the water body, but the depth should not be so shallow that the bottom sediments are frequently resuspended by boat activity. Water bodies must be configured to prevent the creation of debris traps or stagnant areas which could result in violations of state water quality standards.~~

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~~(b) Long term erosion, siltation or propeller dredging that will cause turbidity violations.~~

~~(c) Prevention of any discharge or release of pollutants from the system that will cause water quality standards to be violated.~~

~~4.2.4.3 Additional Water Quality Considerations for Docking Facilities~~

~~Docking facilities are potential sources of pollutants to wetlands and other surface waters. To provide the required reasonable assurance that water quality standards will not be violated, the following factors must be addressed by an applicant proposing the construction of a new docking facility, or the expansion of or other alteration of an existing docking facility that has the potential to adversely affect water quality:~~

~~(a) Hydrographic information or studies shall be required for docking facilities of greater than ten boat slips. Hydrographic information or studies also may be required for docking facilities of less than ten slips, dependent upon the site-features described in paragraph 4.2.4.3(b) below. In all cases, the need for a hydrographic study, and the complexity of the study, will be dependent upon the specific project design and the specific features of the project site.~~

~~(b) The purpose of the hydrographic information or studies is to document the flushing time (the time required to reduce the concentration of a conservative pollutant to ten percent of its original concentration) of the water at the docking facility. This information is used to determine the likelihood that the facility will accumulate pollutants to the extent that water quality violations will occur. Generally, a flushing time of less than or equal to four days is the maximum that is desirable for docking facilities. However, the evaluation of the maximum desirable flushing time also takes into consideration the size (number of slips) and configuration of the proposed docking facility; the amplitude and periodicity of the tide; the geometry of the subject waterbody; the circulation and flushing of the waterbody; the quality of the waters at the project site; the type and nature of the docking facility; the services provided at the docking facility; and the number and type of other sources of water pollution in the area.~~

~~(c) The level and type of hydrographic information or studies that will be required for the proposed docking facility will be determined based upon an analysis of site-specific characteristics. As compared to sites that flush in less than four days, sites where the flushing time is greater than four days generally will require additional, more complex levels of hydrographic studies or information to determine whether water quality standards can be expected to be violated by the facility. The degree and complexity of the hydrographic study will be dependent upon the types of considerations~~

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~~listed in paragraph 4.2.4.3.(b), including the potential for the facility, based on its design and location, to add pollutants to the receiving waters. Types of information that can be required include site-specific measurements of: waterway geometry, tidal amplitude, the periodicity of forces that drive water movement at the site, and water tracer studies that document specific circulation patterns.~~

~~(d) The applicant shall document, through hydrographic information or studies, that pollutants leaving the site of the docking facility will be adequately dispersed in the receiving water body so as to not cause violations of water quality standards based on circulation patterns and flushing characteristics of the receiving water body.~~

~~(e) In all cases, the hydrographic studies shall be designed to document the hydrographic characteristics of the project site and surrounding waters. All hydrographic studies must be based on the factors described in paragraphs (a)-(d) above. An applicant should consult with the District prior to conducting such a study.~~

~~(f) Fueling facilities shall be located and operated so that the potential for spills or discharges to surface waters and wetlands is minimized. Containment equipment and emergency response plans must be provided to ensure that the effects of spills are minimized.~~

~~(g) The disposal of domestic wastes from boat heads, particularly from liveaboard vessels, must be addressed to prevent improper disposal into wetlands or other surface waters. A liveaboard vessel shall be defined as a vessel docked at the facility that is inhabited by a person or persons for any five consecutive days or a total of ten days within a 30 day period.~~

~~(h) The disposal of solid waste, such as garbage and fish cleaning debris, must be addressed to prevent disposal into wetlands or other surface waters.~~

~~(i) Pollutant leaching characteristics of materials such as pilings and anti-fouling paints used on the hulls of vessels must be addressed to ensure that any pollutants that leach from the structures and vessels will not cause violations of water quality standards given the flushing at the site and the type, number and concentration of the likely sources of pollutants.~~

~~4.2.4.4 Temporary Mixing Zones~~

~~A temporary mixing zone for water quality during construction or alteration may be requested by the applicant. The District shall review such request pursuant to Rules 62-4.242 and 62-4.244(5), F.A.C., in accordance with the Operating Agreement~~

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~~Concerning Regulation Under Part IV, Chapter 373, F.S. adopted by reference in paragraph 40E-4.091(1)(c), F.A.C.~~

~~4.2.4.5 Where Ambient Water Quality does not Meet State Water Quality Standards~~

~~If the site of the proposed activity currently does not meet state water quality standards, the applicant must demonstrate compliance with the water quality standards by meeting the provisions in 4.2.4.1, 4.2.4.2, and 4.2.4.3, as applicable, and for the parameters which do not meet water quality standards, the applicant must demonstrate that the proposed activity will not contribute to the existing violation. If the proposed activity will contribute to the existing violation, mitigation may be proposed as described in subsection 4.3.1.4.~~

~~4.2.5 Class II Waters; Waters Approved for Shellfish Harvesting~~
~~The special value and importance of shellfish harvesting waters to Florida's economy as existing or potential sites of commercial and recreational shellfish harvesting and as a nursery area for fish and shellfish is recognized by the District. In accordance with paragraph 4.1.1(d), the District shall:~~

~~(a) Deny a permit for a regulated activity in Class II waters which are not approved for shellfish harvesting unless the applicant submits a plan or proposes a procedure to protect those waters and waters in the vicinity. The plan or procedure shall detail the measures to be taken to prevent significant damage to the immediate project area and the adjacent area and shall provide reasonable assurance that the standards for Class II waters will not be violated;~~

~~(b) Deny a permit for a regulated activity in any class of waters where the location of the system is adjacent or in close proximity to Class II waters, unless the applicant submits a plan or proposes a procedure which demonstrates that the regulated activity will not have a negative effect on the Class II waters and will not result in violations of water quality standards in the Class II waters; and~~

~~(c) Deny a permit for a regulated activity that is located directly in Class II or Class III waters which are classified as approved, restricted, conditionally approved or conditionally restricted for shellfish harvesting. This provision shall not apply to maintenance dredging of navigational channels, the construction of shoreline protection structures, the installation of transmission and distribution lines for carrying potable water, electricity or communication cables in rights-of-way previously used for such lines, for clam and oyster culture, and for private, single family boat docks that meet the following criteria for installation in such waters:~~

~~1. There shall be no more than two boats moored at the dock;~~

~~2. No overboard discharges of trash, human or animal waste, or fuel shall occur at the dock;~~

~~3. Any non-water dependent structures, such as gazebos or fish cleaning stations, shall be located on the uplands;~~

~~4. Prior to the mooring of any boat at the dock, there shall be existing structures with toilet facilities located on the uplands;~~

~~5. Any proposed shelter shall not have enclosed sides;~~

~~6. The mooring area shall be located in waters sufficiently deep to prevent bottom scour by boat propellers; and~~

~~7. Any structures located over grassbeds shall be designed so as to allow for the maximum light penetration practicable.~~

~~4.2.6 Vertical seawalls~~

~~(a) The construction of vertical seawalls in estuaries or lagoons is prohibited unless one of the following conditions exists:~~

~~1. The proposed construction is located within a port as defined in Section 315.02, F.S., or Section 403.021, F.S.;~~

~~2. The proposed construction is necessary for the creation of a marina, the vertical seawalls are necessary to provide access to watercraft, or the proposed construction is necessary for public facilities;~~

~~3. The proposed construction is to be located within an existing manmade canal and the shoreline of such canal is currently occupied in whole or in part by vertical seawalls; or~~

~~4. The proposed construction is to be conducted by a public utility when such utility is acting in the performance of its obligation to provide service to the public.~~

~~(b) When considering an application for a permit to repair or replace an existing vertical seawall, the District shall generally require such seawall to be faced with riprap material, or to be replaced entirely with riprap material unless a condition specified in subparagraphs 1.-4. above exists. Nothing in this subsection shall be construed to hinder any activity previously~~

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~~exempt or permitted, or those activities permitted pursuant to Chapter 161, F.S.~~

~~4.2.7 Secondary Impacts~~

~~Pursuant to paragraph 4.1.1(f), an applicant must provide reasonable assurances that a regulated activity will not cause adverse secondary impacts to the water resource, as described in paragraphs (a) through (d), below. Aquatic or wetland dependent fish and wildlife are an integral part of the water resources which the District is authorized to protect under Part IV, Chapter 373, F.S. Those aquatic or wetland dependent species which are listed as threatened, endangered or of special concern and the Bald Eagle *(Haliaeetus leucocephalus),* which is protected under the Bald and Golden Eagle Protection Act (16 U.S.C. 668-668d), are particularly in need of protection.~~

~~A proposed system shall be reviewed under this criterion by evaluating the impacts to: wetland and surface water functions identified in subsection 4.2.2.3, water quality, upland habitat for Bald Eagle *(Haliaeetus leucocephalus),* aquatic or wetland dependent listed species, and historical and archaeological resources. De minimis or remotely related secondary impacts will not be considered. Applicants may propose measures such as preservation to prevent secondary impacts. Such preservation shall comply with the land preservation provisions of subsection 4.3.8. If such secondary impacts can not be prevented, the applicant may propose mitigation measures as provided for in subsections 4.3 through 4.3.8. This secondary impact criterion consists of the following four parts:~~

~~(a) An applicant shall provide reasonable assurance that the secondary impacts from construction, alteration, and intended or reasonably expected uses of a proposed system will not cause violations of water quality standards or adverse impacts to the functions of wetlands or other surface waters, as described in subsection 4.2.2. Impacts such as boat traffic generated by a proposed dock, boat ramp or dry dock facility, which causes an increased threat of collision with manatees; impacts to wildlife from vehicles using proposed roads in wetlands or surface waters; impacts to water quality associated with the use of septic tanks or propeller dredging by boats and wakes from boats; and impacts associated with docking facilities as described in paragraphs 4.2.4.3(f) and (h), will be considered relative to the specific activities proposed and the potential for such impacts. Impacts of groundwater withdrawals upon wetlands and other surface waters that result from the use of wells permitted pursuant to Chapters 40E-2 and 40E-3, F.A.C., shall not be considered under rules adopted pursuant to Part IV, Chapter 373, F.S., since these impacts are considered in the consumptive use permit application process.~~

~~Secondary impacts to the habitat functions of wetlands associated with adjacent upland activities will not be considered adverse if buffers, with a minimum width of 15' and an average width of 25', are provided abutting those wetlands that will remain under the permitted design, unless additional measures are needed for protection of wetlands used by Bald Eagles *(Haliaeetus leucocephalus)* for nesting or listed species for nesting, denning, or critically important feeding habitat. The mere fact that a species is listed does not imply that all of its feeding habitat is critically important. Buffers shall remain in an undisturbed condition, except for drainage features such as spreader swales and discharge structures, provided the construction or use of these features does not adversely impact wetlands. Where an applicant elects not to utilize buffers of the above described dimensions, buffers of different dimensions, measures other than buffers or information may be proposed to provide the required reasonable assurance.~~

~~De minimis or remotely related secondary impacts such as changes in air quality due to increased vehicular traffic associated with road construction will not be considered unacceptable.~~

~~(b) An applicant shall provide reasonable assurance that the construction, alteration, and intended or reasonably expected uses of a system will not adversely impact the ecological value of uplands to Bald Eagles *(Haliaeetus leucocephalus)* and aquatic or wetland dependent listed animal species for enabling existing nesting or denning by these species, but not including:~~

~~1. Areas needed for foraging; or~~

~~2. Wildlife corridors, except for those limited areas of uplands necessary for ingress and egress to the nest or den site from the wetlands or other surface water;~~

~~Table 4.2.7-1 identifies those aquatic or wetland dependent listed species that use upland habitats for nesting or denning.~~

~~For those aquatic or wetland dependent listed animal species for which habitat management guidelines have been developed by the U.S. Fish and Wildlife Service (USFWS) or the Florida Fish and Wildlife Conservation Commission (FWC), compliance with these guidelines will provide reasonable assurance that the proposed system will not adversely impact upland habitat functions described in paragraph (b). For those aquatic or wetland dependent listed animal species for which habitat management guidelines have not been developed or in cases where an applicant does not propose to use USFWS or FWC habitat management~~

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~~guidelines, the applicant may propose measures to mitigate adverse impacts to upland habitat functions described in paragraph (b), provided to aquatic or wetland dependent listed animal species. Secondary impacts to the functions of wetlands or uplands for nesting of Bald Eagles *(Haliaeetus leucocephalus)* will not be considered adverse if the applicant holds a valid permit pursuant to paragraph 68A-16.002(1)(a), F.A.C. (May 15, 2008), or a valid authorization as described in paragraph 68A-16.002(1)(c), F.A.C. (May 15, 2008) for the same activities proposed by the applicant under Part IV of Chapter 373, F.S., or if the applicant demonstrates compliance with the FWC Eagle Management Guidelines incorporated by reference in Rule 68A-16.002, F.A.C. (May 15, 2008).~~

~~(c) In addition to evaluating the impacts in the area of any dredging and filling in, on, or over wetlands or other surface waters, and as part of the balancing review under subsection 4.2.3, the District will consider any other relevant activities that are very closely linked and causally related to any proposed dredging or filling which will cause impacts to significant historical and archaeological resources.~~

~~(d) An applicant shall provide reasonable assurance that the following future activities will not result in water quality violations or adverse impacts to the functions of wetlands and other surface waters as described in subsection 4.2.2.:~~

~~1. Additional phases or expansion of the proposed system for which plans have been submitted to the District or other governmental agencies; and~~

~~2. On-site and off-site activities regulated under Part IV, Chapter 373, F.S., or activities described in section 403.813(2), F.S., that are very closely linked and causally related to the proposed system.~~

~~As part of this review, the District will also consider the impacts of the intended or reasonably expected uses of the future activities on water quality and wetland and other surface water functions.~~

~~In conducting the analysis under paragraph (d)2., above, the District will consider those future projects or activities which would not occur but for the proposed system, including where the proposed system would be considered a waste of resources should the future project or activities not be permitted.~~

~~Where practicable, proposed systems shall be designed in a fashion which does not necessitate future impacts to wetland and other surface water functions. If future phases or project expansion have the potential to cause adverse secondary impacts, applicants~~

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~~must provide sufficient conceptual design information to provide reasonable assurance that these impacts can be successfully eliminated or offset.~~

~~System expansions and future system phases will be considered in the secondary impact analysis, and if the District determines that future phases of a system involve impacts that appear not to meet permitting criteria, the current application shall be denied unless the applicant can provide reasonable assurance that those future phases can comply with permitting criteria. One way for applicants to establish that future phases or system expansions do not have adverse secondary impacts is for the applicant to obtain a conceptual approval permit for the entire project.~~

~~TABLE 4.2.7-1~~
~~LISTED WILDLIFE SPECIES THAT ARE AQUATIC OR WETLAND DEPENDENT AND THAT USE UPLAND HABITATS FOR NESTING OR DENNING~~

~~Fishes~~

~~Species of Special Concern~~
~~Rivulus marmoratus (mangrove rivulus; rivulus)~~

~~Reptiles~~

~~Endangered~~
~~Chelonia mydas mydas (Atlantic green turtle)~~
~~Crocodylus acutus (American crocodile)~~
~~Dermochelys coriacea (leatherback turtle; leathery turtle)~~
~~Eretmochelys imbricata imbricata (Atlantic hawksbill turtle)~~
~~Kinosternon bauri (striped mud turtle) LISTED ONLY IN LOWER KEYS~~
~~Lepidochelys kempi (Atlantic ridley turtle)~~

~~Threatened~~
~~Caretta caretta caretta (Atlantic loggerhead turtle)~~
~~Thamnophis sauritus sackeni (Florida (Keys) ribbon snake) LISTED ONLY IN LOWER KEYS~~

~~Species of special concern~~
~~Alligator mississippiensis (American alligator)~~
~~Graptemys barbouri (Barbour's map turtle; Barbour's sawback turtle)~~
~~Macroclemys temminickii (alligator snapping turtle)~~
~~Pseudemys concinna suwanniensis (Suwannee cooter)~~

~~Birds~~

~~Endangered~~
~~Ammodramus maritimus mirabilis (Cape Sable seaside sparrow)~~
~~Mycteria americana (wood stork)~~
~~Rostrhamus sociabilis (snail kite)~~

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~~Threatened~~
~~Charadrius alexandrinus tenuirostris (southeastern snowy plover)~~
~~Charadrius melodus (piping plover)~~
~~Columba leucocephalus (white-crowned pigeon)~~
~~Grus canadensis pratensis (Florida sandhill crane)~~
~~Picoides borealis (red-cockaded woodpecker) THIS SPECIES IS WETLAND DEPENDENT ONLY IN LEE, COLLIER, AND CHARLOTTE COUNTIES~~
~~Polyborus plancus audubonii (Audubon's crested caracara)~~
~~Sterna antillarum (least tern)~~
~~Sterna dougallii (roseate tern)~~

~~Species of special concern~~
~~Ajaia ajaia (reseate spoonbill)~~
~~Ammodramus maritumus juncicolus (Wakulla seaside sparrow)~~
~~Ammodramus maritimus peninsulae (Scott's seaside sparrow)~~
~~Aramus guarauna (limpkin)~~
~~Cistothorus palustais griseus (Worthington's marsh wren)~~
~~Cistothorus palustris marianae (Marian's marsh wren)~~
~~Egretta caerulea (little blue heron)~~
~~Egretta rufescens (reddish egret)~~
~~Egretta thula (snowy egret)~~
~~Egretta tricolor (tricolored heron; Louisiana heron)~~
~~Eudocimus albus (white ibis)~~
~~Haematopus palliatus (American oystercatcher)~~
~~Pandion haliaetus (osprey) LISTED ONLY IN MONROE COUNTY~~
~~Pelecanus occidentalis (brown pelican)~~
~~Rhynchops niger (black skimmer)~~

~~Mammals~~

~~Endangered~~
~~Felis concolor coryi (Florida panther)~~
~~Microtus pennsylvanicus dukecambelli (Duke's saltmarsh vole; Florida saltmarsh vole)~~
~~Myotis grisescens (gray bat)~~
~~Myotis sodalis (Indiana bat)~~
~~Odocoileus virginianus clavium (Key deer; toy deer)~~
~~Oryzomys argentatus (silver rice rat)~~
~~Sylvilagus palustris hefneri (Lower Keys marsh rabbit)~~

~~Threatened~~
~~Mustela vison evergladensis (Everglades mink)~~
~~Sciurus niger avicennia (Big Cypress fox squirrel; mangrove fox squirrel)~~
~~Ursus americanus floridanus (Florida black bear)~~

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~~Species of special concern~~
~~Orytzomys palustris sanibeli (Sanibel Island rice rat)~~
~~Sorex longirostris eionis (Homosassa shrew)~~

~~4.2.8 Cumulative Impacts~~

~~Pursuant to paragraph 4.1.1(g), an applicant must provide reasonable assurances that a regulated activity will not cause unacceptable cumulative impacts upon wetlands and other surface waters within the same drainage basin as the regulated activity for which a permit is sought. The impact on wetlands and other surface waters shall be reviewed by evaluating the impacts to water quality as set forth in subsection 4.1.1(c) and by evaluating the impacts to functions identified in subsection 4.2.2. If an applicant proposes to mitigate these adverse impacts within the same drainage basin as the impacts, and if the mitigation fully offsets these impacts, the District will consider the regulated activity to have no unacceptable cumulative impacts upon wetlands and other surface water, and consequently the condition for issuance in section 4.1.1(g), will be satisfied. For purposes of performing a cumulative impact analysis, drainage basins shall be those depicted on Figure 4.4-1.~~

~~When adverse impacts to water quality or adverse impacts to the functions of wetlands and other surface water, as referenced in the paragraph above, are not fully offset within the same drainage basin as the impacts, then an applicant must provide reasonable assurance that the proposed system, when considered with the following activities, will not result in unacceptable cumulative impacts to water quality or the functions of wetlands and other surface waters, within the same drainage basin:~~

~~(a) Projects which are existing or activities regulated under Part IV, Chapter 373, F.S., which are under construction, or projects for which permits or determinations pursuant to Sections 373.421, F.S., have been sought.~~

~~(b) Activities which are under review, approved, or vested pursuant to Section 380.06, F.S., or other activities regulated under Part IV, Chapter 373, F.S., which may reasonably be expected to be located within wetlands or other surface waters, in the same drainage basin, based upon the comprehensive plans, adopted pursuant to Chapter 163, F.S., of the local governments having jurisdiction over the activities, or applicable land use restrictions and regulations.~~

~~Those activities listed in paragraphs (a) and (b) which have similar types of adverse impacts to those which will be caused by the proposed system will be considered. (All citations in paragraphs (a) and (b) refer to provisions of Florida Statutes.) Whenever mitigation located within the same drainage basin fully offsets the proposed impacts to wetland functions as described in section 4.2.2 and to water quality, then the regulated activity does not result in unacceptable cumulative impacts within the same drainage basin.~~

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~~The cumulative impact evaluation is conducted using an assumption that reasonably expected future applications with like impacts will be sought, thus necessitating equitable distribution of acceptable impacts among future applications.~~

~~**4.2.8.1** Cumulative impacts are considered unacceptable when the proposed system, considered in conjunction with the past, present, and future activities as described in 4.2.8, as set forth in subsection 4.1.1(c), would result in a violation of state water quality standards or significant adverse impacts to functions of wetlands or other surface waters, identified in subsection 4.2.2, within the same drainage basin when considering the basin as a whole.~~

~~**4.2.8.2** Applicants may propose measures such as preservation to prevent cumulative impacts. Such preservation shall comply with the land preservation provisions in subsection 4.3.8. If unacceptable cumulative impacts are expected to occur, the applicant may propose mitigation measures as provided for in sections 4.3 through 4.3.8.~~

~~**4.3 Mitigation –**~~

~~Protection of wetlands and other surface waters is preferred to destruction and mitigation due to the temporal loss of ecological value and uncertainty regarding the ability to recreate certain functions associated with these features. Mitigation will be approved only after the applicant has complied with the requirements of subsection 4.2.1 regarding practicable modifications to eliminate or reduce adverse impacts. However, any mitigation proposal submitted by an applicant shall be reviewed concurrently with the analysis of any modifications pursuant to subsection 4.2.1. This section establishes criteria to be followed in evaluating mitigation proposals.~~

~~Mitigation as described in sections 4.3 – 4.3.8 is required only to offset the adverse impacts to the functions as identified in sections 4.2 - 4.2.9. caused by regulated activities. In certain cases, mitigation cannot offset impacts sufficiently to yield a permittable project. Such cases often include activities which significantly degrade Outstanding Florida Waters, adversely impact habitat for listed species, or adversely impact those wetlands or other surface waters not likely to be successfully recreated.~~

~~Applicants are encouraged to consult with District staff in pre-application conferences or during the application process to identify appropriate mitigation options.~~

~~**4.3.1 Types of Mitigation**~~

~~Mitigation usually consists of restoration, enhancement, creation, or preservation of wetlands, other surface waters or uplands. In some cases, a combination of mitigation types is the best approach to offset adverse impacts resulting from the regulated activity.~~

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~~**4.3.1.1** In general, mitigation is best accomplished through creation, restoration, enhancement, or preservation of ecological communities similar to those being impacted. However, when the area proposed to be impacted is degraded, compared to its historic condition, mitigation is best accomplished through creation, restoration, enhancement or preservation of the ecological community which was historically present. Mitigation involving other ecological communities is acceptable if impacts are offset and the applicant demonstrates that greater improvement in ecological value will result.~~

~~**4.3.1.2** In general, mitigation is best accomplished when located on-site or in close proximity to the area being impacted. Off-site mitigation will only be accepted if adverse impacts are offset and the applicant demonstrates that:~~

~~(a) On-site mitigation opportunities are not expected to have comparable long-term viability due to such factors as unsuitable hydrologic conditions or ecologically incompatible existing adjacent land uses or future land uses identified in a local comprehensive plan adopted according to Chapter 163, F.S.; or~~
~~(b) Off-site mitigation would provide greater improvement in ecological value than on-site mitigation.~~

~~One example of a project that would be expected to meet the criteria of paragraphs (a) or (b) above is a linear project which cannot effectively implement on-site mitigation due to documented right-of-way constraints.~~

~~**4.3.1.3** Mitigation through participation in a mitigation bank shall be in accordance with subsection 4.4.~~

~~**4.3.1.4** In instances where an applicant is unable to meet water quality standards because existing ambient water quality does not meet standards and the system will contribute to this existing condition, mitigation for water quality impacts can consist of water quality enhancement. In these cases, the applicant must implement mitigation measures that will cause net improvement of the water quality in the receiving waters for those parameters which do not meet standards.~~

~~**4.3.1.5** To offset adverse secondary impacts from regulated activities to habitat functions that uplands provide to Bald Eagles *(Haliaeetus leucocephalus)* for nesting and to listed species evaluated as provided in paragraph 4.2.7(b), mitigation can include the implementation of management plans, participation in a wildlife mitigation park established by the FWC, or other measures. Measures to offset adverse secondary impacts on wetlands and other surface waters resulting from use of a system can include the incorporation of culverts or bridged crossings designed to facilitate wildlife movement, fencing to limit access, reduced speed zones, or other measures designed to offset the secondary impact.~~

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~~**4.3.1.6** Except as provided in subsection 373.414(6), F.S., mitigation for certain mining activities shall be in accordance with subsection 373.414(6), F.S.~~

~~**4.3.1.7** Mitigation or reclamation required or approved by other agencies for a specific project will be acceptable to the District to the extent that such mitigation or reclamation fulfills the requirements of sections 4.3-4.3.8 and offsets adverse impacts of the same project in accordance with the criteria in sections 4.2-4.2.8.2~~

~~**4.3.1.8** Innovative mitigation proposals which deviate from the standard practices described in sections 4.3-4.3.6 may be proposed by an applicant; however, to receive District approval they must offset the adverse impacts to the functions identified in sections 4.2-4.2.8.2 caused by the regulated activities. The donation of money is not considered to be an acceptable method of mitigation, unless cash payments are specified for use in a District or Department of Environmental Protection endorsed environmental preservation, enhancement or restoration project and the payments initiate a project or supplement an ongoing project. The project or portion of the project funded by the donation of money must offset the impacts of the proposed system.~~

~~**4.3.2 Mitigation Ratio Guidelines**~~

~~a. For applications received on or after February 2, 2004, except as provided in Rule 62-345, F.A.C., Sections 4.3.2 - 4.3.2.4 are superseded by Chapter 62-345, F.A.C.~~

~~b. Subsections 4.3.2 - 4.3.2.4 establish ratios for the acreage of mitigation required compared to the acreage which is adversely impacted by regulated activities. Ranges of ratios are provided below for certain specific types of mitigation, including creation, restoration, enhancement and preservation. Mitigation ratios for wetlands which have a 50% or greater coverage of melaleuca (Melaleuca quinquenervia), will be determined pursuant to subsection 4.3.2.4. and other provisions of this section. The difference between the ranges of ratios provided for mitigation types is based on the degree of improvement in ecological value expected from each type. Creation and restoration are assigned the lowest range of ratios as these activities, when successfully conducted, add new wetlands or other surface waters which provide the same or similar functions as the area being adversely impacted. The range of ratios established for enhancement is higher than that for creation and restoration, as the area being enhanced currently provides a degree of the desired functions, and this type of mitigation serves to increase, rather than create, those functions. Preservation differs from the other types of mitigation in that it does not serve to improve the existing ecological value of an area in the short term. However, preservation does provide benefits as it can ensure that the values of the preserved area are protected and maintained in the long term, particularly when these values are not fully protected under existing regulatory programs. Therefore, the range of ratios established for preservation is higher than those for other types of mitigation. These ratios are provided as guidelines for preliminary planning purposes only. The actual ratio needed to offset adverse impacts may be higher or lower based on a consideration of the factors listed in~~

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~~subsections 4.3.2.1 through 4.3.2.4. For example, in instances where the proposed system results in only a small loss of ecological value in the impacted area, such as cases involving impacts to areas of low ecological value or cases where the proposed system results in a small reduction of ecological value of the impacted area, then the actual mitigation ratio would normally be in the lower end of or below the range. For other types of mitigation, ratios will be determined based upon the reduction in quality and relative value of the functions of the areas adversely impacted as compared to the expected improvement in quality and value of the functions of the mitigation area.~~

~~4.3.2.1 Creation, Restoration and Enhancement~~

~~When considering creation, restoration and enhancement as mitigation, the following factors will be considered to determine whether the mitigation proposal will offset the proposed impacts and to determine the appropriate mitigation ratio:~~

~~(a) The reduction in quality and relative value of the function of the areas adversely impacted, including the factors listed in subsection 4.2.2.3, as compared to the proposed improvement in quality and value of the functions of the area to be created, restored or enhanced.~~

~~(b) Any special designation or classification of the affected area.~~

~~(c) The presence and abundance of nuisance and exotic plants within the area to be adversely impacted.~~

~~(d) The hydrologic condition of the area to be adversely impacted and the degree to which it has been altered relative to the historic condition.~~

~~(e) The length of time expected to elapse before the functions of the area adversely impacted will be offset.~~

~~(f) The likelihood of mitigation success.~~

~~(g) For mine reclamation activities subject to Chapter 211, F.S., Part II, whether the ratio is consistent with the mine reclamation plan submitted pursuant to Chapter 378, F.S.~~

~~**4.3.2.1.1** Creation and restoration have the potential to result in similar benefits, if they can be successfully accomplished. Therefore, the ratio ranges given below for these two types of mitigation are the same. Restoration is usually preferred over creation as it often has a greater chance of success due to soil characteristic, hydrologic regime, landscape position or other factors that favor re-establishment of wetland or other surface water communities. Restoration ratios will generally be at the lower end of the ratio ranges within the guidelines below. The following ratio guidelines will be used to estimate the acreage of wetland restoration or creation required:~~

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~~(a) Mangrove swamps, cypress swamps, and hardwood swamps - 2:1 to 5:1 (acres created or restored: acres impacted).~~

~~(b) Saltwater marshes and freshwater marshes - 1.5:1 to 4:1 (acres created or restored: acres impacted.~~

~~**4.3.2.1.2** The ratio guidelines for use in the estimation of the acreage of wetland enhancement will range from 4:1 to 20:1 (acres enhanced: acres impacted).~~

~~**4.3.2.2 Preservation**~~

~~(a) Preservation of important ecosystems can provide an improved level of protection over current regulatory programs. The District will consider as mitigation the preservation, by donation or conservation easement or other comparable land use restriction, of wetlands, other surface waters, or uplands. Conservation easements or restrictions must be consistent with the requirements of subsection 4.3.8. In many cases it is not expected that preservation alone will be sufficient to offset adverse impacts. Preservation will most frequently be approved in combination with other mitigation measures.~~

~~(b) When considering preservation as mitigation, the following factors will be considered to determine whether the preservation parcel would offset the proposed impacts and to determine the appropriate mitigation ratio.~~

~~1. The reduction in quality and relative value of the functions of the areas adversely impacted, including those factors listed in subsection 4.2.2.3, as compared to the quality and value of the functions of the area to be preserved and the additional protection provided to these functions by the proposed preservation. Factors used in determining this additional level of protection include the extent and likelihood that the land to be preserved would be adversely impacted if it were not preserved, considering the protection provided by existing regulations and land use restrictions.~~

~~2. Any special designation or classification of the affected area.~~

~~3. The presence and abundance of nuisance and exotic plants within the area to be adversely impacted.~~

~~4. The ecological and hydrological relationship between wetlands, other surface waters, and uplands to be preserved.~~

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~~5. The extent to which proposed management activities on the area to be preserved promote natural ecological conditions, such as natural fire patterns.~~

~~6. The proximity of the area to be preserved to areas of national, state, or regional ecological significance, such as national or state parks, Outstanding Florida Waters, and other regionally significant ecological resources or habitats, such as lands acquired or to be acquired through governmental or non-profit land acquisition programs for environmental conservation, and whether the areas to be preserved include corridors between these habitats.~~

~~7. The extent to which the preserved area provides habitat for fish and wildlife, especially listed species.~~

~~8. Any special designation or classification of the area to be preserved.~~

~~9. The extent of invasion of nuisance and exotic species within the area to be preserved.~~

~~(c) Wetland and other surface water preservation ratios. Since wetlands and other surface waters are, to a large extent, protected by existing regulations, the ratio guideline for preservation of wetlands and other surface waters is substantially higher than for restoration and creation. The ratio guideline for wetland and other surface water preservation will be 10:1 to 60:1, (acreage wetlands and other surface waters preserved to acreage impacted).~~

~~(d) Upland preservation ratios. Many wildlife species that are aquatic or wetland dependent spend critical portions of their life cycles in uplands. Uplands function as the contributing watershed to wetlands and are necessary to maintain the ecological value of those wetlands. Because of these values, the preservation of certain uplands may be appropriate for full or partial mitigation of wetland impacts, and impacts to uplands that are used by listed aquatic or wetland dependent species as described in subsection 4.2.7(b). The ratio guideline for upland preservation will be 3:1 to 20:1 (acreage of uplands preserved to acreage impacted).~~

~~**4.3.2.3** To the extent that the area to be preserved offsets the adverse impact and otherwise meets the requirements of this section, wetland, other surface water, or upland habitat which is proposed to be preserved in order to prevent secondary or cumulative impacts can be considered as part of the mitigation plan to offset other adverse impacts of the system.~~

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~~4.3.2.4~~

~~(a) When District staff evaluate mitigation proposals for melaleuca-dominated wetlands, the following factors, in addition to those in subsections 4.3.2.1 and 4.3.2.2, will be considered to determine whether the mitigation will offset the proposed impacts and to determine the appropriate mitigation ratio:~~

~~1. Location and proximity of the property to native habitat including the ecological condition of the adjacent lands; and~~

~~2. Degree of melaleuca infestation;~~

~~(b) Mitigation ratio guidelines for wetlands which have a 50% or greater coverage of melaleuca shall be as follows:~~

~~1. Creation/Restoration 0.25:1 to 0.75:1~~

~~2. Enhancement 0.7:1 to 3.0:1~~

~~3. Wetland Preservation 1.7:1 to 9.0:1~~

~~4. Upland Preservation 0.5:1 to 3.0:1~~

~~(c) Melaleuca within the wetland to be impacted shall be mapped in units not larger than 1/2 acre which differentiate coverages of 50%-75% and 76%-100%. The landowner may elect to measure coverage in more detail. The District shall allow the use of larger mapping units when the landowner can demonstrate that:~~

~~1. 1/2 acre mapping units will impose an economic hardship due to the large size of the wetland impact areas; and~~

~~2. Mapping in larger units will not result in additional acreage qualifying for the ratios in this subsection. The coverage of melaleuca shall be defined as the absolute percentage of the area in question that lies under the crown of a melaleuca tree with a one inch or greater trunk diameter at breast height. The crown of each melaleuca tree shall be considered a solid shape without regard for holes or openings among the leaves and branches. Any valid vegetative sampling method shall be acceptable for estimating melaleuca coverage, including visual observation, use of random sample points, a grid of points, or line or belt transects. (See Bonham, C.D. 1989, *Measurements for Terrestrial Vegetation* for guidance in estimating coverage.) Aerial photography may be used~~

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~~to complement on-the-ground estimates of melaleuca coverage for large tracts.~~

~~(d) Mitigation ratios for wetlands which have less than a 50% coverage of melaleuca shall be determined pursuant to the guidelines set forth in sections 4.3.2.1.1, 4.3.2.1.2 and 4.3.2.2.~~

~~4.3.3 Mitigation Proposals~~

~~4.3.3.1~~ ~~Applicants shall provide reasonable assurance that proposed mitigation will:~~

~~(a) Offset adverse impacts due to regulated activities; and~~

~~(b) Achieve mitigation success by providing viable and sustainable ecological and hydrological functions.~~

~~4.3.3.2~~ ~~Applicants shall submit detailed plans describing proposed construction, establishment, and management of mitigation areas. These plans shall include the following information, as appropriate for the type of mitigation proposed:~~

~~(a) A soils map of the mitigation area and other soils information pertinent to the specific mitigation actions proposed.~~

~~(b) A topographic map of the mitigation area and adjacent hydrologic contributing and receiving areas.~~

~~(c) A hydrologic features map of the mitigation area and adjacent hydrologic contributing and receiving areas.~~

~~(d) A description of current hydrologic conditions affecting the mitigation area.~~

~~(e) A map of vegetation communities in and around the mitigation area.~~

~~(f) Construction drawings detailing proposed topographic alterations and all structural components associated with proposed activities.~~

~~(g) Proposed construction activities, including a detailed schedule for implementation.~~

~~(h) A vegetation planting scheme if planting is proposed, and schedule for implementation.~~

~~(i) Sources of plants and soils used in wetland creation.~~

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~~(j) Measures to be implemented during and after construction to avoid adverse impacts related to proposed activities.~~

~~(k) A management plan comprising all aspects of operation and maintenance, including water management practices, vegetation establishment, exotic and nuisance species control, fire management, and control of access.~~

~~(l) A proposed monitoring plan to demonstrate mitigation success.~~

~~(m) A description of the activities proposed to control exotic and nuisance species should these become established in the mitigation area. The mitigation proposal must include reasonable measures to assure that these species do not invade the mitigation area in such numbers as to affect the likelihood of success of the project.~~

~~(n) A description of anticipated site conditions in and around the mitigation area after the mitigation plan is successfully implemented.~~

~~(o) A comparison of current fish and wildlife habitat to expected habitat after the mitigation plan is successfully implemented.~~

~~(p) For mitigation plans with projected implementation costs in excess of $25,000.00, an itemized estimate of the cost of implementing mitigation as set forth in subsection 4.3.7.7.~~

~~4.3.4 Monitoring Requirements for Mitigation Areas~~

~~Applicants shall monitor the progress of mitigation areas until success can be demonstrated as provided in subsection 4.3.6. Monitoring parameters, methods, schedules, and reporting requirements will be specified in permit conditions.~~

~~4.3.5 Protection of Mitigation Areas~~

~~Applicants shall propose and be responsible for implementing methods that assure that mitigation areas will not be adversely impacted by incidental encroachment or secondary activities which might compromise mitigation success.~~

~~4.3.6 Mitigation Success~~

~~Due to the wide range of types of projects which may be proposed for mitigation, specific success criteria will be determined on a case-by-case basis. Mitigation success will be measured in terms of whether the objectives of the mitigation can be realized. The success criteria to be included in the permit conditions will specify the minimum requirements necessary to attain a determination of success. The mitigation shall be deemed successful by the District when all applicable water quality standards are met,~~

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~~the mitigation area has achieved viable and sustainable ecological and hydrological functions and the specific success criteria contained in the permit are met. If success is not achieved within the timeframe specified within the permit, remedial measures shall be required. Monitoring and maintenance requirements shall remain in effect until success is achieved.~~

~~4.3.7 Financial Responsibility for Mitigation~~

~~As part of compliance with paragraph 40E-4.301(1)(j), F.A.C., where an applicant proposes mitigation, the applicant shall provide proof of financial responsibility to:~~

~~(a) Conduct the mitigation activities;~~

~~(b) Conduct any necessary management of the mitigation site;~~

~~(c) Conduct monitoring of the mitigation; and~~

~~(d) Conduct any necessary corrective action indicated by the monitoring.~~

~~4.3.7.1 Applicants Not Subject to Financial Responsibility Requirements~~

~~The following applicants shall not be subject to the financial responsibility requirements in subsections 4.3.7-4.3.7.9:~~

~~(a) Applicants whose mitigation is deemed successful pursuant to subsection 4.3.6 of this Basis of Review prior to undertaking the construction activities authorized under the permit issued pursuant to Part IV, Chapter 373, F.S.~~

~~(b) Applicants whose mitigation is estimated to cost less than $25,000.00.~~

~~(c) Federal, state, county and municipal governments, state political subdivisions, investor-owned utilities regulated by the Public Service Commission, and rural electric cooperatives.~~

~~(d) Mitigation banks which comply with the financial responsibility provisions of section 4.4.10 of this Basis of Review.~~

~~4.3.7.2 Amount of financial responsibility~~

~~The amount of financial responsibility provided by the applicant shall be in an amount equal to 110 percent of the cost estimate determined pursuant to subsection 4.3.7.8 below, for each phase of the mitigation plan submitted under the requirements of sections 4.3 - 4.3.8.~~

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~~4.3.7.3 Documentation~~

~~The permit applicant shall provide draft documentation of the required financial responsibility mechanism described below, and shall submit to the District the executed or finalized documentation within the time frames specified in the permit.~~

~~4.3.7.4 General Terms for Financial Responsibility Mechanisms~~

~~In addition to the specific provisions regarding financial responsibility mechanisms set forth in subsection 4.3.7.6 below, the following, as they relate to the specific mechanism proposed, shall be complied with:~~

~~(a) The form and content of all financial responsibility mechanisms shall be approved by the District.~~

~~(b) The mechanisms shall name the District as sole beneficiary or shall be payable solely to the District. However, any local pollution control program acting pursuant to Section 403.182, F.S., may be a co-beneficiary of the financial assurance mechanism. The original financial responsibility mechanism shall be retained by the District.~~

~~(c) The financial responsibility mechanisms shall be established with a state or national bank, savings and loan association, or other financial institution licensed in this state. In the case of letters of credit, the letter of credit must be issued by an entity which has authority to issue letters of credit and whose letter of credit operations are regulated and examined by a federal or state agency. In the case of a surety bond, the surety bond must be issued by a surety company registered with the state of Florida.~~

~~(d) The financial responsibility mechanisms shall be effective on or prior to the date that the activity authorized by the permit commences and shall continue to be effective through the date of notification of final release by the District in accordance with subsection 4.3.7.7.2 below of this Basis of Review.~~

~~(e) A co-beneficiary as provided in subsection (b) shall provide written notice to the District prior to withdrawing or transferring any portion of the funds therein.~~

~~(f) The financial responsibility mechanisms shall provide that it cannot be revoked, terminated or cancelled without first providing an alternative financial responsibility mechanism which meets the requirements of subsections 4.3.7-4.3.7.9. Within 90 days of receipt by the permittee of actual or constructive notice of revocation, termination or cancellation of a financial responsibility mechanism or other actual or constructive notice of~~

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~~cancellation, the permittee shall provide an alternate financial responsibility mechanism which meets the requirements of subsections 4.3.7 - 4.3.7.9.~~

~~**4.3.7.5** If the permittee fails to comply with the terms and conditions of the permit, subsection 4.3.7 or fails to complete the mitigation and monitoring within the timeframes specified in the permit conditions or any extension thereof, such failure shall be deemed a violation of chapter 40E-4, F.A.C., and the permit issued thereunder. In addition to any other remedies for such violation as the District may have, the District, upon notice as provided in the mechanism or if none, upon reasonable notice, may draw upon the financial mechanism.~~

~~**4.3.7.6 Financial Responsibility Mechanisms**~~

~~Financial responsibility for the mitigation, monitoring and corrective action for the project may be established by any of the following methods, at the discretion of the applicant:~~

~~(a) Performance bond (Form No. 1105), December 2011, incorporated by reference in paragraph 40E-4.091(1)(a), F.A.C.;~~
~~(b) Irrevocable letter of credit (Form No. 1106), December 2011, incorporated by reference in paragraph 40E-4.091(1)(a);~~
~~(c) Trust fund agreement;~~
~~(d) Deposit of cash or cash equivalent into an escrow account;~~
~~(e) An audited annual financial statement submitted by a Certified Public Accountant representing that the applicant has a tangible net worth equal to or in excess of the cost of the mitigation plan. For purposes of this subparagraph, "tangible net worth" means total assets, not including intangibles such as goodwill and right to patents or royalties, minus total liabilities, computed in accordance with generally accepted accounting principles;.~~
~~(f) A demonstration that the applicant meets the financial test and corporate guarantee requirements set forth in 40 C.F.R. Section 264.143(f) incorporated by reference in paragraph 40E-4.091(1)(f), F.A.C. Where the referenced test is used to provide evidence of financial resources necessary to conduct mitigation activities the term "closure and post-closure cost estimates" as set forth therein, shall be construed to mean "mitigation cost estimates."~~
~~(g) Guarantee bond;~~
~~(h) Insurance certificate; or~~
~~(i) A demonstration that the applicant meets the self-bonding provisions set forth at 30 C.F.R. Section 800.23 incorporated by reference in paragraph 40E-4.091(1)(i), F.A.C. Where the referenced provisions are used to provide evidence of financial responsibility to conduct mitigation activities, the term "surface coal mining and reclamation operations," as set forth therein, shall be construed to mean "mitigation activities."~~

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~~4.3.7.7 Cost Estimates~~

~~For the purposes of determining the amount of financial responsibility that is required by this subsection, the applicant shall submit a detailed written estimate, in current dollars, of the total cost of conducting the mitigation, including any maintenance and monitoring activities and the applicant shall comply with the following:~~

~~(a) The cost estimate for conducting the mitigation and monitoring shall include all associated costs for each phase thereof, including earthmoving, planting, structure installation, maintaining and operating any structures, controlling nuisance or exotic species, fire management, consultant fees, monitoring activities and reports.~~

~~(b) The applicant shall submit the estimates, together with verifiable documentation, to the District along with the draft of the financial responsibility mechanism.~~

~~(c) The costs shall be estimated based on a third party performing the work and supplying materials at the fair market value of the services and materials. The source of any cost estimates shall be indicated.~~

~~4.3.7.7.1 Partial Releases~~

~~The permittee may request the District to release portions of the financial responsibility mechanism as phases of the mitigation plan, such as earth moving or other construction or activities for which cost estimates were submitted in accordance with subsection 4.3.7.7 are successfully completed. The request shall be in writing and include documentation that the phase or phases have been completed and have been paid for or will be paid for upon release of the applicable portion of the financial responsibility mechanism. The District shall authorize the release of the portion requested upon verification that the construction or activities have been completed in accordance with the mitigation plans.~~

~~4.3.7.7.2 Final Release~~

~~Within thirty (30) days of the District determining that the mitigation is successful in accordance with subsection 4.3.6, the District shall so notify the permittee and shall authorize the return and release of all funds held or give written authorization to the appropriate third party for the cancellation or termination of the financial responsibility mechanism.~~

~~4.3.7.8 Financial Responsibility Conditions~~

~~For applicants subject to the financial responsibility of subsections 4.3.7 - 4.3.7.9, the District will include the following conditions on the permit.~~

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~~(a) A permittee must notify the District by certified mail of the commencement of a voluntary or involuntary proceeding under Title XI (Bankruptcy), U.S. Code naming the permittee as debtor within 10 business days after the commencement of the proceeding.~~

~~(b) A permittee who fulfills the requirements of subsections 4.3.7 - 4.3.7.9 by obtaining a letter of credit, performance bond or other form of surety providing the same level of financial responsibility will be deemed to be without the required financial assurance in the event of bankruptcy, insolvency or suspension or revocation of the license or charter of the issuing institution. The permittee must reestablish in accordance with subsections 4.3.7 - 4.3.7.9 a financial responsibility mechanism within 60 days after such event.~~

~~(c) When transferring a permit in accordance with Rule 40E-4.351, F.A.C., the new owner or person with legal control shall submit documentation to satisfy the financial responsibility requirements of subsections 4.3.7 - 4.3.7.9. The prior owner or person with legal control of the project shall continue the financial responsibility mechanism until the District has approved the permit transfer and substitute financial responsibility mechanism.~~

~~4.3.7.9 Financial Responsibility Mechanisms For Multiple Projects~~

~~A applicant may use a mechanism specified in subsection 4.3.7.6 above to meet the financial responsibility requirement for multiple projects. The financial responsibility mechanism must include a list of projects and the amount of funds assured for each project. The mechanism must be no less than the sum of the funds that would be necessary in accordance with subsection 4.3.7.2 above, as if separate mechanisms had been established for each project. As additional permits are issued which require mitigation, the amount of the financial responsibility mechanism may be increased in accordance with subsection 4.3.7.2, above and the project added to the list.~~

~~4.3.8 Real Property Conveyances~~

~~(a) All conservation easements and restrictive covenants pursuant to Section 704.06, F.S., shall be granted in perpetuity without encumbrances, unless such encumbrances do not have the potential to adversely affect the ecological viability of the mitigation. All liens against the area preserved pursuant to Section 704.06, F.S., shall be released, subordinated to, or joined with the conservation easement or restrictive covenant. Conservation easements and restrictive covenants shall be consistent with Section 704.06, F.S.; and shall contain restrictions that ensure the ecological viability of the site.~~

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~~(b) Plat restrictions proposed to meet the requirements of Section 704.06, F.S., and Section 4.3.2.2 must contain the language contained in Section 704.06(1)(a)-(h), F.S. In order to provide reasonable assurance of the preservation of the protected area in accordance with the permit in perpetuity, plat language shall provide the District a third-party right to enforce the restrictions of Section 704.06, F.S., and shall further provide that the Section 704.06, F.S., plat restrictions cannot be altered, released or revoked without the prior written consent of the District.~~

~~(c) The following conservation easement forms are incorporated by reference in paragraph 40E-4.091(1)(a), F.A.C.:~~

~~Form No. 1190, Deed of Conservation Easement (Standard), December 2011;~~

~~Form No. 1191, Deed of Conservation Easement (Standard Passive Recreational), December 2011;~~

~~Form No. 1192, Deed of Conservation Easement (Standard Riparian), December 2011;~~

~~Form No. 1194, Deed of Conservation Easement (Third Party Standard), December 2011;~~

~~Form No. 1195, Deed of Conservation Easement (Third Party Passive Recreational), December 2011;~~

~~Form No. 1196, Deed of Conservation Easement (Third Party Riparian), December 2011;~~

~~Form No. 1197, Restrictive Covenant (Standard), December 2011;~~

~~Form No. 1318, Deed of Conservation Easement (Local Governments), December 2011.~~

~~(d) All real property conveyances shall be in fee simple and by statutory warranty deed, special warranty deed, or other deed, without encumbrances that adversely affect the integrity of the preservation objectives. The District shall also accept a quit claim deed if necessary to aid in clearing minor title defects or otherwise resolving boundary questions.~~

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~~4.4 Mitigation Banking -~~

~~4.4.1 Intent~~

~~**4.4.1.1** The Environmental Reorganization Act of 1993 directed the District to adopt rules governing the creation and use of mitigation banks to offset adverse impacts caused by activities regulated under Part IV of Chapter 373, F.S. This section, in addition to other rules promulgated under Part IV of Chapter 373, F.S., is intended to meet this requirement.~~

~~**4.4.1.2** The District recognizes that, in certain instances, adverse impacts of activities regulated under Part IV of Chapter 373, F.S., can be offset through participation in a Mitigation Bank. This rule provides criteria for this mitigation alternative to complement existing mitigation criteria and requirements. This section does not supersede any other criteria and requirements in rules promulgated under Part IV of Chapter 373, F.S.~~

~~**4.4.1.3** The District intends that Mitigation Banks be used to minimize mitigation uncertainty associated with traditional mitigation practices, provide greater assurance of mitigation success, and optimize opportunities to restore any degraded habitats which may be incorporated into the bank. It is anticipated that the consolidation of multiple mitigation projects into larger contiguous areas will provide greater assurance that the mitigation will yield long-term, sustainable, regional ecological benefits. Mitigation Banks should emphasize restoration and enhancement of degraded ecosystems and the preservation of uplands and wetlands as intact ecosystems rather than alteration of landscapes to create wetlands. The establishment and use of mitigation banks in or adjacent to areas of national, state, or regional ecological significance is encouraged, provided the area in which the mitigation bank is proposed to be located is determined appropriate for mitigation banking and the bank meets all applicable permit criteria.~~

~~**4.4.1.4** Nothing in this section shall affect the mitigation requirements set forth in any mitigation bank agreement or any permit issued pursuant to Chapter 84-79, Laws of Florida, or Part IV of Chapter 373, F.S., prior to the effective date of this section. If a permittee wishes to substantially modify a mitigation bank previously established by agreement or permit, the permittee must comply with this section. This section does not prohibit an applicant from proposing project-specific pre-construction mitigation, or off-site mitigation, without establishing a Mitigation Bank pursuant to this section.~~

~~4.4.2 Use of a Mitigation Bank~~

~~**4.4.2.1** Use of a Mitigation Bank is appropriate, desirable, and a permittable mitigation option when the Mitigation Bank will offset the adverse impacts of the project; and~~

~~(a) On-site mitigation opportunities are not expected to have comparable long-term viability due to such factors as unsuitable hydrologic conditions or ecologically incompatible existing adjacent land uses or future land~~

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~~uses identified in a local comprehensive plan adopted according to Chapter 163, F.S.; or~~

~~(b) Use of the Mitigation Bank would provide greater improvement in ecological value than on-site mitigation.~~

~~**4.4.2.2** In some cases, a combination of on-site mitigation and participation in a Mitigation Bank will be appropriate to offset adverse impacts of a project.~~

~~**4.4.3 Criteria for Establishing a Mitigation Bank**~~

~~The following criteria shall be met to establish a Mitigation Bank:~~

~~**4.4.3.1** The banker shall provide reasonable assurance that the proposed Mitigation Bank will:~~

~~(a) Improve ecological conditions of the regional watershed;~~

~~(b) Provide viable and sustainable ecological and hydrological functions for the proposed mitigation service area;~~

~~(c) Be effectively managed in perpetuity;~~

~~(d) Not destroy areas with high ecological value;~~

~~(e) Achieve mitigation success; and~~

~~(f) Be adjacent to lands which will not adversely affect the long-term viability of the Mitigation Bank due to unsuitable land uses or conditions.~~

~~**4.4.3.1.2** The banker shall also provide reasonable assurance that any surface water management system constructed within the mitigation bank area will meet the conditions of issuance of Chapters 40E-4, 40E-40, 40E-41 or 40E-400, F.A.C. as applicable.~~

~~**4.4.3.2** A Mitigation Bank may be implemented in phases if each phase independently meets the requirements of subsections 4.4.3.1 and 4.4.3.1.2 above.~~

~~**4.4.3.3** The banker shall:~~

~~(a) Have sufficient legal or equitable interest in the property to meet the requirements of section 4.4.9; and~~

~~(b) Meet the financial responsibility requirements of section 4.4.10.~~

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~~4.4.4 Permit Applications for an Individual or Conceptual Approval Environmental Resource Permits for a Mitigation Bank~~

~~Any person or entity proposing to establish a Mitigation Bank must apply for an Environmental Resource Permit. An application for an Individual or Conceptual Approval Environmental Resource Permit for a mitigation bank shall constitute an application for any related activity which would require a permit authorized under Chapters 40E-4, 40E-40, 40E-41 and 40E-400, F.A.C. Therefore, a separate application for a permit to construct a surface water management system proposed as part of the mitigation bank is not required. Environmental Resource Permit applications to establish or conceptually approve a Mitigation Bank shall be processed according to Chapter 120, F.S. To provide the District with reasonable assurances that the proposed Mitigation Bank will meet the criteria in this section, each permit application submitted to the District shall include the information needed to review any permit required under Chapters 40E-4, 40E-40, 40E-41 and 40E-400, F.A.C. and the information specified below as appropriate for the project:~~

~~4.4.4.1~~ ~~A description of the location of the proposed Mitigation Bank which shall include:~~

~~(a) A map at regional scale showing the project area in relation to the regional watershed and proposed mitigation service area;~~

~~(b) A vicinity map showing the project area in relation to adjacent lands and offsite areas of ecologic or hydrologic significance which could affect the long term viability or ecological value of the bank;~~

~~(c) An aerial photograph identifying boundaries of the project area;~~

~~(d) A highway map showing points of access to the Mitigation Bank for site inspection; and~~

~~(e) A legal description of the proposed Mitigation Bank.~~

~~4.4.4.2~~ ~~A description of the ecological significance of the proposed Mitigation Bank to the regional watershed in which it is located.~~

~~4.4.4.3~~ ~~A description and assessment of current site conditions which shall include:~~

~~(a) A soils map of the project area;~~

~~(b) A topographic map of the project area and adjacent hydrologic contributing and receiving areas;~~

~~(c) A hydrologic features map of the project area and adjacent hydrologic contributing and receiving areas;~~

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~~(d) Current hydrologic conditions in the project area;~~

~~(e) A vegetation map of the project area;~~

~~(f) Ecological benefits currently provided to the regional watershed by the project area;~~

~~(g) Adjacent lands, including existing land uses and conditions, projected land uses according to comprehensive plans adopted pursuant to Chapter 163, F.S., by local governments having jurisdiction, and any special designations or classifications associated with adjacent lands or waters; and~~

~~(h) A disclosure statement of any material fact which may effect the contemplated use of the property.~~

~~**4.4.4.4** A mitigation plan describing the actions proposed to establish, construct, operate, manage and maintain the Mitigation Bank which shall include:~~

~~(a) Construction-level drawings detailing proposed topographic alterations and all structural components associated with proposed activities;~~

~~(b) Proposed construction activities, including a detailed schedule for implementation;~~

~~(c) The proposed vegetation planting scheme and detailed schedule for implementation;~~

~~(d) Measures to be implemented during and after construction to avoid adverse impacts related to proposed activities;~~

~~(e) A detailed long term management plan comprising all aspects of operation and maintenance, including water management practices, vegetation establishment, exotic and nuisance species control, fire management, and control of access; and~~

~~(f) A proposed monitoring plan to demonstrate mitigation success.~~

~~**4.4.4.5** An assessment of improvement or changes in ecological value anticipated as a result of proposed mitigation actions which shall include:~~

~~(a) A description of anticipated site conditions in the Mitigation Bank after the mitigation plan is successfully implemented;~~

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~~(b) A comparison of current fish and wildlife habitat to expected habitat after the mitigation plan is successfully implemented; and~~

~~(c) A description of the expected ecological benefits to the regional watershed.~~

~~**4.4.4.6** Evidence of sufficient legal or equitable interest in the property which is to become the Mitigation Bank to meet the requirements of section 4.4.9.~~

~~**4.4.4.7** Draft documentation of financial responsibility meeting the requirements of section 4.4.10, and utilization of the following Mitigation Bank Financial Assurance forms, which are incorporated by reference in paragraph 40E-4.091(1)(a), F.A.C.,:~~

~~Form No. 1019, December 2011, Mitigation Bank Performance Bond to Demonstrate Construction/Implementation Financial Assurance;~~

~~Form No. 1020, December 2011, Mitigation Bank Irrevocable Letter of Credit to Demonstrate Construction/Implementation Financial Assurance;~~

~~Form No. 1021, December 2011, Mitigation Bank Standby Trust Fund Agreement to Demonstrate Construction/Implementation Financial Assurance;~~

~~Form No. 1022, December 2011, Mitigation Bank Trust Fund Agreement to Demonstrate Construction/Implementation Financial Assurance;~~

~~Form No. 1023, December 2011, Mitigation Bank Trust Fund Agreement to Demonstrate Perpetual Management Financial Assurance;~~

~~Form No. 1024, December 2011, Mitigation Bank Standby Trust Fund Agreement to Demonstrate Perpetual Management Financial Assurance.~~

~~**4.4.4.8** A person or entity who wishes to obtain an estimation of the legal and financial requirements necessary for a mitigation bank, information necessary for evaluation of an application for an individual permit for a mitigation bank, and potential credits to be awarded pursuant to a mitigation bank individual permit may apply for a mitigation bank conceptual approval. An application for a mitigation bank conceptual approval must contain the information listed in 4.4.4.1-8 above.~~

~~**4.4.5 Establishment of Mitigation Credits**~~

~~**4.4.5.1** Based upon the information submitted by the applicant, and an assessment of the proposed Mitigation Bank pursuant to the criteria in this section, the District will~~

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~~assign a number of Mitigation Credits to the proposed Mitigation Bank, or phases thereof.~~

~~**4.4.5.2** A Mitigation Credit is a unit of measure which represents the increase in ecological value resulting from restoration, enhancement, preservation, or creation activities. For purposes of establishing a standard unit of measure, one Mitigation Credit is equivalent to the ecological value gained by the successful creation of one acre of wetland. Mitigation Credits assigned for enhancement, restoration or preservation of wetlands or uplands will be based on the extent of improvement in ecological value resulting from these activities relative to that obtained by successfully creating one acre of wetland. In determining the degree of improvement in ecological value, the following factors will be considered:~~

~~(a) The extent to which target hydrologic regimes can be achieved and maintained.~~

~~(b) The extent to which management activities promote natural ecological conditions, including natural fire patterns.~~

~~(c) The proximity to areas of national, state, or regional ecological significance, such as national or state parks, Outstanding National Resource Waters, Outstanding Florida Waters, and other regionally significant ecological resources or habitats, such as lands acquired or to be acquired through governmental or non-profit land acquisition programs for environmental conservation, and the establishment of corridors to those resources or habitats.~~

~~(d) The quality and quantity of wetland or upland restoration, enhancement, preservation, or creation.~~

~~(e) The ecological and hydrological relationship between wetlands and uplands in the Mitigation Bank.~~

~~(f) The extent to which the Mitigation Bank provides habitat for fish and wildlife, especially habitat for species listed as threatened, endangered or of special concern, or provides habitats which are unique for that mitigation service area.~~

~~(g) The extent to which the lands that are to be preserved are already protected by existing state, local or federal regulations or land use restrictions.~~

~~(h) The extent that lands to be preserved would be adversely affected if they were not preserved.~~

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~~(i) Any special designation or classification of the affected waters and lands.~~

~~**4.4.5.3** No credit shall be available for freshwater wetland creation until the success of the created wetlands is demonstrated.~~

~~**4.4.5.4** Some Mitigation Credits may be withdrawn prior to meeting all of the performance criteria specified in the individual permit. The number of credits and schedule for release shall be determined based upon the performance criteria for the Mitigation Bank, and the success criteria for each mitigation activity. A Mitigation Bank will be credited with its maximum number of Mitigation Credits only after meeting the mitigation success criteria specified in the permit. However, no credits shall be released prior to meeting the requirements of Section 4.4.9.~~

~~**4.4.5.5** Mitigation Credits available for withdrawal may be transferred, sold or used subject to the provisions of this section.~~

~~**4.4.5.6** If at any time the banker is not in material compliance with the terms of the individual permit, no Mitigation Credits may be withdrawn. Mitigation Credits shall again be available for withdrawal if the banker comes back into compliance.~~

~~**4.4.5.7** The individual permit shall contain a ledger listing the number and type of Mitigation Credits in the Mitigation Bank. The ledger will provide the maximum number and type of Mitigation Credits which would be available for withdrawal when the Mitigation Bank meets all of the performance criteria in the permit.~~

~~**4.4.5.8** Mitigation Credits may be sold whole or in part at the banker's discretion. Mitigation Credits may be sold or resold until they are used to offset adverse impacts.~~

~~**4.4.5.9** The District shall maintain a ledger of the Mitigation Credits available in each Mitigation Bank. Mitigation Credits shall be withdrawn as a non-substantial modification of the individual permit. To withdraw Mitigation Credits, the permit applicant must document that Mitigation Credits have been reserved, sold or transferred to the permit applicant, and that the Mitigation Credits have been withdrawn from the Mitigation Bank. If the agency permitting the impact determines that use of the Mitigation Credits proposed by the applicant is appropriate to offset the adverse impacts, it shall notify the District. Upon receipt of this notice, the District shall determine if a sufficient number and type of Mitigation Credits are available, withdraw the Mitigation Credits, and notify the agency permitting the impact and the banker in writing of the withdrawal of the Mitigation Credits and the remaining balance of Mitigation Credits.~~

~~**4.4.5.10** When the Department is the banker, the Department shall maintain its own ledger. The Department shall annually submit a report of the Mitigation Credits sold, transferred, or used from its Mitigation Bank to the District.~~

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~~4.4.6 Contribution of Lands~~

~~A permit applicant may contribute land to a Mitigation Bank if:~~

~~(a) The adverse impacts to be offset by the land donation are within the mitigation service area of the Mitigation Bank, except as provided in Section 4.4.8.4;~~

~~(b) The land will offset adverse impacts of the proposed project;~~

~~(c) The land is adjacent to or will become a District approved Mitigation Bank;~~

~~(d) The land will improve or enhance the ecological value of a District approved Mitigation Bank;~~

~~(e) The land will be encumbered pursuant to the requirements of section 4.4.9; and~~

~~(f) The grantee of the conservation easement or fee simple interest agrees to accept such conveyance.~~

~~4.4.7 Contribution of Funds~~

~~Funds may be contributed to a Mitigation Bank by purchasing Mitigation Credits from the banker.~~

~~4.4.8 Mitigation Service Area~~

~~4.4.8.1~~ ~~A Mitigation Service Area will be established for each Mitigation Bank in the individual permit. Except as provided herein, Mitigation Credits may only be withdrawn to offset adverse impacts in the Mitigation Service Area. The extent of the Mitigation Service Area will depend upon whether adverse impacts within the Mitigation Service Area can be adequately offset by the Mitigation Bank.~~

~~4.4.8.2~~ ~~A Mitigation Service Area may be larger than the regional watershed if adverse impacts to wetlands outside the regional watershed could be adequately offset by the Mitigation Bank because of local ecological or hydrological conditions. A Mitigation Service Area may be smaller than a regional watershed, such as in an aquatic preserve, Outstanding Florida Water, or Area of Critical State Concern, if adverse impacts throughout the regional watershed could not be offset by the Mitigation Bank because of local ecological or hydrological conditions.~~

~~4.4.8.3~~ ~~Mitigation Service Areas may overlap and multiple Mitigation Service Areas may be approved for a regional watershed.~~

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~~**4.4.8.4** In addition to projects located wholly within the Mitigation Service Area of a Mitigation Bank, the following projects are eligible to use a Mitigation Bank if the requirements in section 4.4.2 are met:~~

~~(a) Projects with adverse impacts partially located within the Mitigation Service Area.~~

~~(b) Linear projects, such as roadways, transmission lines, distribution lines, pipelines, or railways.~~

~~(c) Projects with total adverse impacts of less than one-half acre in size.~~

~~**4.4.8.5** When Mitigation Credits are applied to offset adverse impacts within the regional watershed, the mitigation credit requirement shall be the same as that specified for mitigation on the project site.~~

~~**4.4.8.6** When Mitigation Credits are applied to offset adverse impacts outside the regional watershed, the mitigation credit requirement may be higher than that specified for mitigation on the project site, if necessary to adequately offset the adverse impacts of the project.~~

~~**4.4.9 Land Use Restrictions on Mitigation Banks**~~

~~**4.4.9.1** Before Mitigation Credits may be used from a Mitigation Bank or any phase of a Mitigation Bank, the banker shall either (1) cause a fee interest to be conveyed to the District, or (2) cause a conservation easement to be conveyed to both the Department of Environmental Protection and the District. The grantor may convey a conservation easement to additional grantees provided that such conveyance is consistent with the preservation requirements of the permit. Mitigation Banks on Federally owned land shall be encumbered in perpetuity by conservation easements or other mechanisms ensuring preservation in accordance with the individual permit.~~

~~**4.4.9.2** All conservation easements shall be granted in perpetuity without encumbrances, unless such encumbrances do not adversely affect the ecological viability of the Mitigation Bank. All conservation easements shall be of a form and content sufficient to ensure preservation of the Mitigation Bank according to the permit, and shall, at a minimum, meet the requirements and restrictions of Section 704.06, F.S., except as provided in the individual permit, and meet the requirements of subsection 4.4.9.9.~~

~~**4.4.9.3** All real property conveyances shall be in fee simple and by statutory warranty deed, special warranty deed, or other deed, without encumbrances that adversely affect the District's title to the Mitigation Bank property or preservation of the Mitigation Bank according to the permit. The District shall accept a quit claim deed if necessary to aid in~~

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~~clearing minor title defects or otherwise resolve a boundary question in the Mitigation Bank.~~

~~**4.4.9.4** The grantor of the property or conservation easement shall provide the following unless the District determines such items are not necessary to ensure preservation of the Mitigation Bank according to the permit:~~

~~(a) A survey of the property or the area within the conservation easement. The survey must be certified by a land surveyor registered in the State of Florida as meeting the requirements of the District, and the minimum technical standards set forth by the Florida Board of Professional Land Surveyors in Chapter 21 HH-6, F.A.C., pursuant to Section 472.027, F.S.~~

~~(b) A certified appraisal of the market value of the property or interest to be conveyed to determine the appropriate amount of title insurance.~~

~~(c) Assurance of the marketability of the interest in real property being acquired in the form of a marketable title commitment and owner's title policy (ALTA Form B) in an amount at least equal to the fair market value, as established in subsection 4.4.9.4(b), of the real property. The coverage, form and exceptions of the title insurance policy shall ensure that the Mitigation Bank will be preserved according to the individual permit.~~

~~(d) If a fee simple interest is being conveyed, a Phase I environmental audit identifying any environmental problems which may affect the liability of the District and any additional audits as are necessary to disclose the presence of any substance or condition that could subject the District to liability.~~

~~**4.4.9.5** The grantor shall pay the documentary revenue stamp tax and all other taxes or costs associated with the conveyance, including the cost of recording the deed or easement and any other recordable instruments required by the District, unless prohibited or exempt by law, as a condition of the receipt of the conveyance.~~

~~**4.4.9.6** All real estate taxes and assessments which are or which may become a lien against the property shall be satisfied of record by the grantor before or at closing. If required by Section 196.295, F.S., the grantor shall place funds in escrow with the county tax collector.~~

~~**4.4.9.7** The grantor shall remove all abandoned personal property and solid waste from the property that reduces the proposed ecological value of the property, will adversely affect the construction, implementation or management of the bank, or poses a liability risk to the District, as a condition of receipt of the conveyance.~~

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~~**4.4.9.8** The grantor shall provide in the conservation easement that the banker and the District shall have access to the property to perform all acts necessary to ensure compliance with the individual permit and any permits issued under this Part.~~

~~**4.4.9.9** The banker shall record the conservation easement or property deed within 30 days of issuance of the individual permit, or as otherwise required in the individual permit. The banker shall submit to the District a certified copy of the recorded conservation easement or property deed within 30 days of recording.~~

~~**4.4.10 Financial Responsibility**~~

~~**4.4.10.1** To provide reasonable assurances that the proposed Mitigation Bank will meet the requirements of this section and the associated permit conditions, non-governmental bankers shall provide proof of financial responsibility for: (1) the construction and implementation phase of the bank, and (2) the long term management of the bank, as required in this section. Governmental entities shall provide proof of financial responsibility pursuant to Section 4.4.10.8. The amount of financial responsibility provided in the mechanisms required in this section shall be based on the cost estimates determined pursuant to Section 4.4.10.6.~~

~~**4.4.10.2 Financial Responsibility Documentation.**~~

~~The applicant shall provide draft documentation of the required financial responsibility mechanisms described below with the permit application, and shall submit to the District the executed or finalized documentation within the time frames specified in the permit. The provisions of this section shall also apply for any modifications to the individual permit.~~

~~**4.4.10.3 General Terms for Financial Responsibility Mechanisms**~~

~~In addition to the specific provisions regarding financial responsibility mechanisms for construction and implementation in subsection 4.4.10.4 and long term management in subsection 4.4.10.5, the following terms shall be complied with:~~

~~(a) The financial mechanisms shall name the District as sole beneficiary or shall be payable to the District. If the financial responsibility mechanism is of a type which is retained by the beneficiary according to industry standards, it shall be retained by the District.~~

~~(b) The financial institution issuing or maintaining the financial responsibility mechanism must have the legal authority to conduct such operations and must be regulated and examined by a Federal agency or the State of Florida. If insurance is provided to the financial institution by a Federal agency, the amount of insurance shall not be less than the amount of~~

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~~financial responsibility required by this section. Surety or guarantee bonds must be issued by a surety company registered with the State of Florida.~~

~~(c) No person shall withdraw or transfer any portion of the monies provided for financial responsibility without first obtaining prior written approval from the District, which shall be granted provided that such withdrawal or transfer does not reduce the amount of financial responsibility below the cost requirements in Sections 4.4.10.4(c) and 4.4.10.5(b), as applicable.~~

~~(d) The financial responsibility mechanisms shall not expire or terminate prior to completion of the applicable permit conditions.~~

~~(e) The financial responsibility mechanisms shall not be terminated or cancelled by the banker. Within 90 days of receipt of a notice of cancellation of a financial responsibility mechanism or other actual or constructive notice of cancellation, the banker shall provide an alternate financial responsibility mechanism which meets the requirements of this section.~~

~~(f) If the Mitigation Bank has failed to comply with the terms and conditions of the permit, the District upon reasonable notice may draw upon the financial mechanism.~~

~~4.4.10.4 Financial Responsibility for Construction and Implementation~~

~~(a) No financial responsibility shall be required where the construction and implementation of the Mitigation Bank, or a phase thereof, is completed and successful prior to the withdrawal of any credits.~~

~~(b) Financial responsibility for the construction and implementation of each phase of the Mitigation Bank may be established by guarantee bonds, performance bonds, insurance certificates, irrevocable letters of credit, trust fund agreements, or securities. If bonds or an irrevocable letter of credit are used as the financial mechanism, a standby trust fund shall be established, in a form meeting standard industry practices, in which all payments under the bonds or letter of credit shall be directly deposited.~~

~~(c) The amount of financial responsibility established shall equal the cost of construction and implementation of each phase of the Mitigation Bank which is being implemented, pursuant to Section 4.4.10.6. When a current phase has been completely constructed, implemented and is trending towards success according to the terms of the permit, the respective amount of financial responsibility shall be released.~~

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~~(d) The financial responsibility mechanism shall become effective at least 60 days prior to initiation of construction of the next phase of the Mitigation Bank, or as otherwise required by the individual permit prior to initiation of implementation and construction of the subject phase.~~

~~4.4.10.5 Financial Responsibility for the Long Term Management~~

~~(a) A banker shall establish a trust fund agreement to provide financial responsibility for the long term management of the Mitigation Bank, or phase thereof. Trust fund agreements shall be submitted in a format which meets standard industry practices.~~

~~(b) The amount of financial responsibility shall equal the cost of long term management, pursuant to Section 4.4.10.6, for all previously constructed phases and the current phase for which credits have been approved for withdrawal.~~

~~(c) The trust fund agreement shall be effective and fully funded at least 60 days prior to the withdrawal of credits from the Mitigation Bank, or phase thereof, or as otherwise provided in the individual permit prior to the withdrawal of credits.~~

~~4.4.10.6 Cost Estimates~~

~~(a) For the purposes of determining the amount of financial responsibility that is required in this section, the banker shall submit a detailed written estimate, in current dollars, of the total cost of construction and implementation and long term management of the Mitigation Bank.~~

~~(b) The cost estimate for construction and implementation shall include all costs associated with completing construction and implementation of the Mitigation Bank, or phase thereof, including earthmoving, planting, structure installation, consultant fees, monitoring activities and reports.~~

~~(c) The cost estimate for the long term management of the Mitigation Bank shall be based on the costs of maintaining and operating any structures, controlling nuisance or exotic species, fire management, consultant fees, monitoring activities and reports, and any other costs associated with long term management. The amount of financial responsibility shall equal the cost of long term management for all previously constructed phases and the current phase for which the withdrawal of credits is imminent.~~

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~~(d) The banker shall submit the estimates, together with verifiable documentation, to the District along with the proof of financial responsibility.~~

~~(e) The costs shall be estimated based on a third party performing the work at the fair market value of services. The source of any cost estimates shall be indicated.~~

~~4.4.10.7 Cost Adjustments~~

~~(a) The banker shall, every two years, adjust the amount of financial responsibility provided for construction, implementation, and long term management. Every two years the banker shall submit to the District a cost adjustment statement accompanied by supporting documentation. Construction, implementation, and long term management costs shall be listed separately. The District shall review the cost adjustment statement and supporting documentation to determine if it reflects all construction, implementation, and long term management costs. The District shall approve the cost adjustment statement if all such costs are reflected.~~

~~(b) At each cost adjustment, the banker shall revise the construction and implementation cost estimate for inflation and changes in the costs to complete the current phase of the Mitigation Bank.~~

~~(c) At each cost adjustment, the banker shall revise the long term management cost estimate for inflation and changes in the costs to carry out the long term management conditions of the permit.~~

~~(d) Revised cost estimates shall be used as the basis for modifying the financial mechanism. If the value of the financial mechanism is less than the total amount of the current construction and implementation and long term management cost estimates, the banker shall, upon District approval of the cost adjustment statement, increase the value of the financial mechanism to reflect the new estimate within 60 days. If the value of the funding mechanism is greater than the total amount of the current cost estimate, the banker may reduce the value of the funding mechanism to reflect the new estimate upon receiving District approval of the cost adjustment statement.~~

~~(e) The District shall require adjustment of the amount of financial responsibility provided for construction, implementation or long term management at times other than the cost adjustment period when the costs associated with compliance with the permit conditions exceed the current amount of financial responsibility and such financial assurances are deemed necessary to ensure compliance with the permit conditions.~~

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~~4.4.10.8 Financial Responsibility for Governmental, Non-Department, Mitigation Banks~~

~~(a) Governmental entities other than the Department shall demonstrate that they can meet the financial responsibility requirements for construction and implementation in Section 4.4.10.4 by any of the mechanisms in Section 4.4.10.4 above, or by other financial mechanisms which meet the requirements of this section.~~

~~(b) Governmental entities other than the Department shall establish a trust fund for the long term management of the Mitigation Bank in accordance with Section 4.4.10.5 above. The trust fund agreement for long term management may be funded as Mitigation Credits are withdrawn, provided that the trust fund agreement is fully funded when all Mitigation Credits are withdrawn. Governmental entities shall comply with the cost adjustment provisions in Section 4.4.10.7.~~

~~4.4.11 Individual or Conceptual Approval Environmental Resource Permit for a Mitigation Bank~~

~~If the Mitigation Bank proposal meets the criteria in this section, the District shall issue either an individual permit or a Conceptual Approval to the banker.~~

~~4.4.11.1~~ ~~The individual permit authorizes the implementation and operation of the Mitigation Bank and sets forth the rights and responsibilities of the banker for the implementation, management, maintenance and operation of the Mitigation Bank. The individual permit shall include the following:~~

~~(a) A description of the Mitigation Service Area.~~

~~(b) The maximum number of Mitigation Credits available for use when the Mitigation Bank, or phase thereof, is deemed successful, the type of Mitigation Credits awarded, and the number and schedule of Mitigation Credits available for use prior to success.~~

~~(c) The success criteria by which the Mitigation Bank will be evaluated.~~

~~(d) The financial responsibility mechanism(s) which must be employed by the banker including the procedure for drawing on the financial mechanisms by the District, and provisions for adjustment of the financial responsibility mechanism.~~

~~(e) Requirements for the execution and recording of the conservation easement or conveyance of the fee interest as provided in section 4.4.9.~~

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~~(f) A ledger listing Mitigation Credits available in the Mitigation Bank.~~

~~(g) A schedule for implementation of the Mitigation Bank, and any phases therein.~~

~~(h) The long term management requirements for the Mitigation Bank.~~

~~(i) The conditions required pursuant to Chapters 40E-4, 40E-40, 40E-41 or 40E-400, F.A.C., as applicable, for construction and operation of any surface water management system proposed within the Mitigation Bank.~~

~~**4.4.11.2** An individual permit issued in accordance with 4.4.11 shall automatically expire five years from the date of issuance if the banker has not recorded a conservation easement or conveyed fee simple interest, as appropriate, over the real property within the Mitigation Bank, or phase thereof, in accordance with the individual permit, or, when no property interest is required to be recorded, the individual permit shall automatically expire if no construction has been commenced pursuant thereto. Except as provided above, an individual permit shall be perpetual unless revoked or modified.~~

~~**4.4.11.3** A Mitigation Bank Conceptual Approval estimates the legal and financial requirements necessary for the Mitigation Bank, information necessary for evaluation of the application for an individual permit for the mitigation bank, and potential Mitigation Credits to be awarded pursuant to the individual permit. The Mitigation Bank Conceptual Approval does not authorize the use or withdrawal of Mitigation Credits, or any construction within the Mitigation Bank. The level of detail provided in the Mitigation Bank Conceptual Approval will depend on the level of detail submitted with the application. A Mitigation Bank Conceptual Approval shall be valid for a term of five years from the date of issuance.~~

~~**4.4.12 Surrender, Transfer, or Modification of an Individual or Conceptual Approval Environmental Resource Permits for a Mitigation Bank**~~

~~**4.4.12.1** A banker may apply to surrender an individual permit, or permitted phase thereof, by submitting a written request to the District. The written request must identify which phase of the Mitigation Bank will be surrendered, indicate the extent of mitigation work performed in that phase, and describe the conservation property interest encumbering that phase. The District shall authorize release from an individual permit when no credits have been sold and relinquishment of the phase would not compromise the ecological value of the remaining portions of the Mitigation Bank.~~

~~**4.4.12.2** If a property interest has been conveyed as provided in Section 4.4.9 for an individual permit which is surrendered as provided in Section 4.4.12.1 above, the District shall convey the property interest back to the grantor of that interest.~~

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~~**4.4.12.3** If a surface water management system has been constructed or altered within the Mitigation Bank, the banker shall obtain any permits required pursuant to Chapters 40E-4, 40E-40, 40E-41 and 40E-400, F. A. C., to abandon the surface water management system.~~

~~**4.4.12.4** To transfer an individual permit, the banker shall meet the requirements of Rule 40E-1.6107, F.A.C., and the entity to which the permit will be transferred must provide reasonable assurances that it can meet the requirements of sections 4.4.9 and 4.4.10.~~

~~**4.4.12.5** An Individual Environmental Resource Permit for a Mitigation Bank can be issued as a modification to a Mitigation Bank Conceptual Approval.~~

~~**4.4.13 Department of Environmental Protection Mitigation Banks**~~

~~The Department may construct, operate, manage, and maintain a Mitigation Bank pursuant to this section after obtaining an individual permit from the District.~~

~~**4.4.13.1** The Department may apply to establish a Mitigation Bank by submitting a Mitigation Bank plan which meets the applicable permitting criteria of this section, in one of the following formats:~~

~~(a) A Mitigation Bank plan identifying one or more parcels of lands to be acquired for mitigation site(s).~~

~~(b) A Mitigation Bank plan identifying one or more parcels of land in which the Department has a legal or equitable interest.~~

~~**4.4.13.2** The Department shall maintain the land within the Regional Mitigation Bank pursuant to the terms of the individual permit. Any change in the land use shall require a modification of the Mitigation Bank Permit.~~

~~**4.4.13.3** Notwithstanding any other provision of this Chapter, the Department may sell, transfer, or use Mitigation Credits prior to acquiring the proposed mitigation site as set forth in its individual permit.~~

~~**4.4.13.4 Department Financial Responsibility**~~

~~A portion of the funds contributed to a Department Mitigation Bank from the sale of credits shall be dedicated for the construction and implementation of the Mitigation Bank, and a portion of the funds shall be dedicated for the long-term management of the bank as set forth in the individual permit. Funds derived from the sale of Mitigation Credits which are not necessary for the construction, implementation, and long-term management of a Department Regional Mitigation Bank shall be dedicated for the~~

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~~initiation of other Department Mitigation Banks, or expansion of other Department land acquisition or restoration projects which improve regional ecological conditions.~~

~~4.4.13.5 Procedures for Establishment of Mitigation Banks~~

~~Mitigation Banks established by the Department shall be permitted pursuant to the procedures encompassed in the Operating Agreement Concerning Regulation Under Part IV, Chapter 373, F.S. adopted by reference in Rule 40E-4.091, F.A.C.~~

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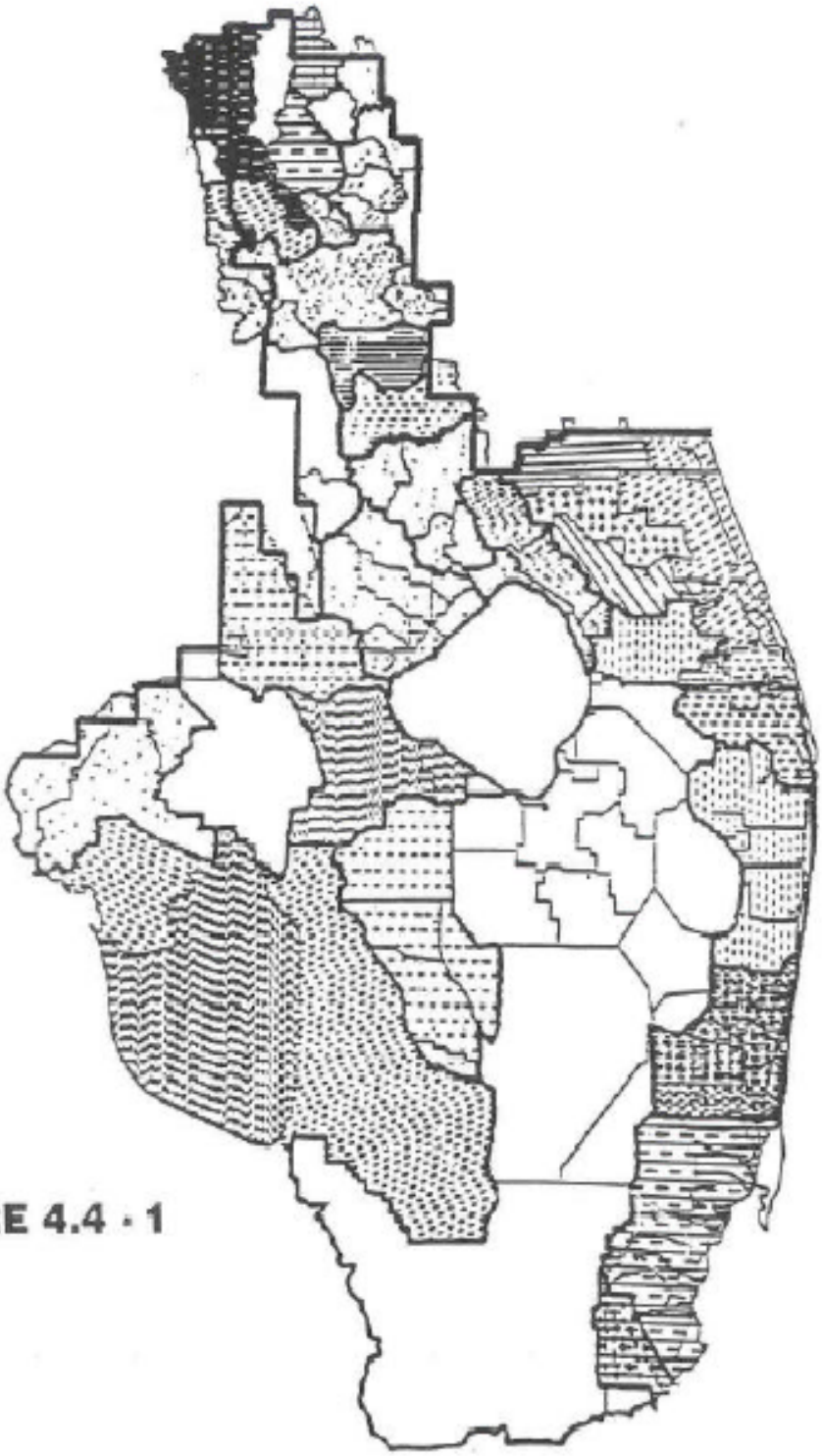

FIGURE 4.4 - 1

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~~4.5 Formal Determination of Landward Extent of Wetlands and other Surface Waters -~~

~~Pursuant to subsection 373.421(2), F.S., the Governing Board has established a procedure by which a real property owner, an entity that has the power of eminent domain, or any person who has a legal or equitable interest in real property may petition the District for a formal determination for that property. A formal wetland determination means the District will determine the locations on the property of the landward extent (boundaries) of the wetlands and other surface waters defined by Chapter 62-340, F.A.C., as ratified in Section 373.4211, F.S., and incorporated by reference in paragraph 40E-4.091(1)(g), F.A.C.~~

~~4.5.1 Procedure~~

~~To petition for a formal determination, the petitioner must submit to the District the following:~~

~~(a) One copy of completed Form No. 0972, Petition for a Formal Wetland and Surface Water Determination, April 2012, incorporated by reference in paragraph 40E-4.091(1)(a), F.A.C., including one copy of all items required by the form; and~~

~~(b) The appropriate non-refundable formal determination fee pursuant to section 40E-1.607, F.A.C.~~

~~Within 30 days of receipt of a petition for a formal determination, the District shall notify the petitioner of any missing or insufficient information in the petition documentation submitted which may be necessary to complete review of the petition.~~

~~The District shall complete the determination and shall issue a notice of intended agency action within 60 days after the petition is deemed complete. The District shall publish the notice of intended agency action on the petition in a newspaper of general circulation in the county or counties where the property is located.~~

~~Sections 120.57 and 120.569, F.S., apply to formal determinations made pursuant to this section. Any person whose substantial interests will be affected by the District's proposed action on the petition may request an administrative hearing on the proposed action pursuant to section 40E-1.511, F.A.C. If no request for an administrative hearing is filed, the Executive Director will then take final action on the petition for the formal determination.~~

~~The Executive Director will only issue a formal determination if the petitioner has satisfied all the requirements of section 4.5. A person requesting a formal determination may withdraw the petition without prejudice at any point before final agency action.~~

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~~4.5.2 Types of Formal Determinations~~

~~A petitioner can request a formal determination consisting of a certified survey, an approximate delineation, or combinations thereof, as described below.~~

~~(a) The survey of the extent of wetlands and other surface waters shall be certified pursuant to chapter 472, F.S., to meet the minimum technical standards in chapter 61G17-6, F.A.C. A petitioner seeking a certified surveyed delineation shall have a land surveyor registered in the State of Florida survey the verified boundaries of wetlands and other surface waters, and shall have the surveyor or surveyor's representative accompany the District representative on the delineation verification described in subsection 4.5.3. The certified survey shall also contain a legal description of, and acreage contained within, the boundaries of the property for which the determination is sought. The boundaries of wetlands and other surface waters shall be witnessed to the property boundaries, and shall be capable of being mathematically reproduced from the survey. The petitioner shall submit one copy of the survey, along with one copy of the survey depicted on aerial photographs, to the District to complete the petition.~~

~~(b) An approximate delineation shall consist of a boundary produced by using global positioning system (GPS), a boundary drawn on rectified aerial photographs, a geo-reference image produced from a boundary drawn on a non-rectified aerial photograph, or any combination thereof.~~

~~1. A range of variability shall be determined for all approximate delineations by comparing a number of specific boundary points indicated on the aerial photograph, or located by GPS, to field located boundary points. The District shall determine the number and location of comparison sites using the total linear feet of delineated boundary such that the total number of sites reflects at least one site for every 1000 feet of delineated boundary. No fewer than three boundary point comparisons shall be performed for each approximate delineation. For GPS approximate delineations, the petitioner shall conduct a specific purpose survey, as defined in chapter 61G17-6, F.A.C., to show the relationship of field located boundary points to the GPS located boundary points. The range of variability shall be the greatest deviation measured at the comparison boundary points. An approximate delineation method cannot be used if the range of variability is equal to or greater than plus or minus 25 feet.~~

~~2. An aerial photograph shall serve as the basis for an approximate delineation only when the aerial photograph accurately depicts the~~

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~~boundaries of the wetlands and other surface waters by a clear expression of vegetative or physical signatures as verified by groundtruthing. If a submitted aerial photograph does not provide an accurate depiction, then the landward extent of wetlands and other surface waters shall be delineated by flagging the boundary, and the formal determination shall be produced using GPS or a certified survey.~~

~~3. Following any verification and adjustment as required in subsection 4.5.3, the petitioner shall submit one copy of the following to complete the petition: a hand drawn delineation on a rectified aerial photograph; the geo-referenced image of the delineation and aerial photograph with the delineation; or the GPS depiction of the delineation on an aerial photograph.~~

~~4. When a subsequent permit application includes regulated activities within 200 feet of the landward extent of the range of variability of an approximate delineation at a given location, the applicant shall establish in the field the exact boundary of the wetlands and other surface waters at that location.~~

~~4.5.3 Locating the Surface Waters and Wetlands Boundary Line~~

~~If the property is 10 acres or greater in size, the petitioner or petitioner's agent shall initially delineate the boundaries of wetlands and other surface waters by either flagging the boundary for a certified survey or GPS, or estimating the extent of wetlands and other surface waters on aerial photographs, prior to the District's inspection of the site. A District representative will then verify the location of the boundary line and indicate to the petitioner any necessary adjustments in the initial delineation needed to reflect an accurate boundary. For properties less than 10 acres in size, the petitioner is not required to approximate the delineation.~~

~~4.5.4 Duration~~

~~The formal determination shall be binding for five years provided physical conditions on the property do not change so as to alter the boundaries of wetlands and other surface waters during that period.~~

~~4.5.5 Formal Determinations for Properties with an Existing Formal Determination~~

~~Within sixty days prior to the expiration of a formal determination, the property owner, an entity that has the power of eminent domain, or any other person who has a legal or equitable interest in the property may petition for a new formal determination for the same parcel of property and such determination shall be issued, approving the same extent of surface waters and wetlands in the previous formal determination, as long as~~

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~~physical conditions on the property have not changed, other than changes which have been authorized by a permit pursuant to this part, so as to alter the boundaries of surface waters or wetlands and the methodology for determining the extent of surface waters and wetlands ratified by Section 373.421, F.S., has not been amended since the previous formal determination.~~

~~4.5.6 Nonbinding Determinations~~

~~The District may issue informal nonbinding pre-application determinations or otherwise initiate nonbinding determinations on its own initiative.~~

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PART III – STORMWATER QUANTITY/FLOOD CONTROL

~~6.0 WATER QUANTITY CRITERIA~~

3.1 ~~6.1~~ General

This document refers~~, in common engineering language,~~ to flood and drought frequency impacts interchangeably with rainfall frequency. ~~The Applicant is cautioned however that water resource impacts are of interest in the permit process, and that~~ A~~a~~dditional calculations may be required to identify other combinations of site conditions and rainfall frequencies which might result in impacts of the specified frequency. Examples include designs affected by spring tides, fluctuating tides and fluctuating receiving water stages.

3.2 ~~6.2~~ Discharge Rate

Off-site discharge rate is limited to rates not causing adverse impacts to existing off-site properties, and:

(a) Historic discharge rates; or

(b) Rates determined in previous Agency ~~District~~ permit actions; or

(c) Rates specified in District criteria (see Appendix A ~~2~~ to this Volume).

3.3 ~~6.3~~ Design Storm

Unless otherwise specified by previous Agency ~~District~~ permits or ~~District~~ criteria, a storm event of 3 day duration and 25 year return frequency shall be used in computing off-site discharge rates. Applicants are advised that local drainage districts or local governments may require more stringent design storm criteria. An applicant who demonstrates ~~feels~~ its project is subject to unusual site specific conditions may, as a part of the permit application process, request an alternate discharge rate.

3.3.1 Methodologies

An acceptable peak discharge analysis typically consists of generating pre-development and post-development runoff hydrographs, routing the post-development hydrograph through a detention basin, and sizing an overflow structure to control post-development discharges at or below pre-development rates. Acceptable design techniques also include the use of grassed waterways, and any other storage capability that the particular system may have.

Peak discharge computations shall consider the duration, frequency, and intensity of rainfall, the antecedent moisture conditions, upper soil zone and surface storage, time of concentration, tailwater conditions, changes in land use or land cover, and any other

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changes in topographic and hydrologic characteristics. Large systems shall be divided into sub-basins according to artificial or natural drainage divides to allow for more accurate hydrologic simulations. ~~Examples of accepted methodologies for computing runoff are:~~

~~(a) Soil Conservation Service Method [see U.S. Department of Agriculture, Soil Conservation Service "National Engineering Handbook, Section 4, Hydrology," TR-55 ("Urban Hydrology for Small Watershed") or TR-20 User's Manuals];~~

~~(b) Santa Barbara Urban Hydrograph Method;~~

~~(c) U.S. Army Corps of Engineers HEC-HMS Computer Programs;~~

~~(d) Storm Water Management Model (SWMM) 5 or higher;~~

~~(e) Interconnected Channel and Pond Routing Model (ICPR); or~~

~~(f) PONDS.~~

~~Other hydrograph and routing methods may be proposed and will be approved by the Agency if the applicant provides reasonable assurance that the alternative method has comparable accuracy and reliability as the above methods.~~

Peak discharge calculations must make proper use of the SCS Peak Rate Factor or K' Factor. The Peak Rate Factor reflects the effect of watershed storage on the hydrograph shape and directly and significantly impacts the peak discharge value. As such, K' must be based on the true watershed storage of runoff, and not on the slope of the landscape which is more accurately accounted for in the time of concentration. However, the average slope of natural watersheds is highly interrelated with the surface storage potential. Land development will generally result in a reduction of natural storage. As a result, the K' value should either increase or remain constant, but never decrease. In most cases, post-development conditions will include detention storage areas; this storage should be accounted for by routing the hydrograph based on a defined stage-storage-discharge relationship and should therefore not be considered in determining K'. However, in some cases where surface storage is maintained, K' may be reduced to same value used in the pre-development condition.

3.3.2 Aggregate Discharge

Where multiple off-site discharges are designed to occur, if the combined discharges meet all other requirements of Chapter 62-330, F.A.C., and discharge to the same receiving waterbody, the Agency will allow the total post-development peak discharge not to exceed the pre-development peak discharge for the combined discharges rather than for each individual discharge.

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3.3.3 Upper Soil Zone Storage and Surface Storage

In most instances, the upper soil zone storage and surface storage capacities will have an effect on the pre-development and post-development peak discharges and shall be considered in these computations. Any generally accepted and well-documented method may be used to develop the upper soil zone storage and surface storage values.

(a) The soil zone storage at the beginning of a storm shall be estimated by using reasonable and appropriate parameters consistent with generally accepted engineering and scientific principles to reflect drainage practices, average wet season water table elevation, the antecedent moisture condition (generally AMC II) and any underlying soil characteristics that would limit or prevent percolation of storm water into the entire soil column. The soil storage used in the computation shall not exceed the difference between the maximum soil water capacity and the field capacity (for example, gravitational water) for the soil columns above any impervious layer or seasonal groundwater table. Refer to Section 5.7.4.2 for additional soil storage criteria.

(b) Surface storage, including that available in wetlands and low-lying areas, shall be considered as depression storage. Depression storage shall be analyzed for its effect on peak discharge and the time of concentration. Depression storage can also be considered in post-development storage routing which requires development of stage-storage relationships. If depression storage is considered, then both pre-development and post-development storage routing must be considered.

3.4 ~~6.4~~ Flood Protection of Building Floors

Building floors shall be at or above the 100 year flood elevations, as determined from the most appropriate information, including Federal Flood Insurance Rate Maps. Both tidal flooding and the 100 year, 3 day storm event shall be considered in determining elevations.

Lower floor elevations will be considered for agricultural buildings which are non-residential and are not routinely accessed by the public. For example, agricultural structures such as barns or equipment sheds ~~would~~ normally qualify for a lower finished floor elevation. Applicants are cautioned that potential water quality impacts caused by flooding of contents housed in a structure will be considered in allowing a reduced finished floor elevation.

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3.5 ~~6.5~~ Flood Protection of Roads and Parking Lots

Many local governments have criteria for the protection of roads and parking lots from flooding.

(a) In cases where criteria are not specified by the local government with jurisdiction, the following design criteria for drainage and flood protection shall be used:

frequency - 5 years
duration - 1 day (road centerlines)
1 hour (parking lots served by exfiltration systems)

(b) If the local government with jurisdiction has set flood protection criteria for roads and parking lots within commercial projects, the Agency ~~District~~ will not require the applicant to meet Agency ~~District~~ road and parking lot flood protection criteria. This shall only be allowed for commercial projects which are to remain single owner projects. Such criteria may provide lesser degrees of flood protection than required under Agency ~~District~~ criteria. Projects which are not permitted pursuant to Agency ~~District~~ criteria will be special conditioned, as notice to the p~~P~~ermittee and local government, that a substandard design has been permitted. The applicant shall, however, meet Agency ~~District~~ criteria for water quality, off-site discharge and building floor elevations.

(c) In each basin, the minimum roadway crown elevation shall be at least 2 feet higher than the control elevation, in order to protect the road subgrade.

3.6 ~~6.6~~ Flood Plain Encroachment

No net encroachment into the floodplain, between the average wet season water table and that encompassed by the 100 year event, which will adversely affect the existing rights of others, will be allowed.

3.7 ~~6.7~~ Historic Basin Storage

Provision must be made to replace or otherwise mitigate the loss of historic basin storage provided by the project site.

3.8 ~~6.8~~ Offsite Lands

Onsite works such as swales and dikes shall be used to allow the passage of drainage from offsite areas to downstream areas. Diking of project development areas or other

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equivalent methods shall be used to contain water at or above stages identified in the project discharge computations.

3.9 ~~6.9~~ Minimum Drainage

(a) Residential projects shall have systems with the calculated ability to discharge by surface flow or subsurface percolation at least 3/8 inch per day during or subsequent to the storm of the allowable discharge frequency and duration, so that lowering of the water surface elevations within the water management system to the maximum depth compatible with the environmental protection or other constraints as described in 3.10 ~~6.10~~, will occur in 12 days or less.

(b) 1. Commercial and industrial projects to be subdivided for sale, where the initial permittee will not build the entire system, are required to have installed by the initial permittee, as a minimum,

a. The required water quality system for one inch of runoff detention or one half inch of runoff retention in the master system for the total developed site. The individual sites must provide the remainder (2.5" x % impervious - one inch) which may be in exfiltration trench. The master system must be in a legally defined common area. The master system cannot utilize exfiltration trench.

b. A stormwater collection and conveyance system to interconnect the retention/detention system with the outfall, with access points to the system available to each individual lot or tract. The system shall be sized to limit discharge under design conditions to the allowable discharge.

2. Projects permitted in such manner will require deed restrictions which identify to lot or tract purchasers:

a. The amount of additional on-site storm water management system necessary to provide flood protection for specific design events,
b. Any additional retention/detention required for water quality purposes, and
c. The assumed percent impervious, or impervious area used in design calculations.

3.10 ~~6.10~~ Overdrainage and Water Conservation

Systems shall be designed to:

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(a) m~~M~~aintain existing water table elevations in existing wellfield cones of depression; ~~and~~

(b) p~~P~~reserve site environmental values (see Section 10.0 ~~4.0~~ of Applicant's Handbook Volume I); ~~and~~

(c) n~~N~~ot waste freshwater; ~~and~~

(d) n~~N~~ot lower water tables which would adversely affect the existing rights of others;~~,~~ and

(e) p~~P~~reserve site ground water recharge characteristics.

3.11 ~~6.11~~ Detention and Control Elevations

Detention and control elevations shall be set to accomplish 3.10 ~~6.10~~ and are subject to the following criteria:

(a) Wetland protection elevations;~~,~~

(b) Consistency with surrounding land and project control elevations and water tables;~~,~~

(c) Possible restrictions by other agencies to include tree protection and landscape ordinances;~~,~~

(d) Consistency with water use permits;~~,~~ and

(e) A maximum depth of six feet below natural ground.

3.12 ~~6.12~~ Lake-Wetland Separation

Lakes which potentially may adversely affect wetland areas shall be separated from the wetland preservation, creation, or restoration areas by a minimum distance as determined by the following criteria:

(a) A separation distance (shortest distance between the wetland jurisdictional line and the edge of water in the proposed waterbody ~~water body~~ at the proposed control elevation) producing a gradient less than or equal to 0.005 using the difference in the elevation of the jurisdictional boundary of the wetland and the basin control elevation to calculate the driving head. Staff will consider elevations differing from the jurisdictional boundary of the wetland to calculate the driving head. The applicant will be required to submit monitoring data or other relevant hydrologic data

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from the site to substantiate the reason for using a different starting elevation. Existing conditions alone will not be considered sufficient reason to use a different elevation if there is evidence that activities on or adjacent to the project site may be responsible for lowering water tables which may be currently having an adverse impact on the subject wetlands. In these cases, preservation of the wetlands cannot be assured by simply maintaining the existing conditions.

(b) If the gradient resulting from any separation distance and the driving head as defined above is between 0.005 and 0.015, then calculations will be required which demonstrate that the drawdown in the adjacent wetland(s) will be of a magnitude which will not result in adverse impacts on the wetland. A drawdown of more than 12 vertical inches in a 90-day period with no recharge shall be presumed to be an adverse impact.

(c) If the gradient is equal to or greater than 0.015, then construction of an impermeable barrier or other equivalent action must be taken to mitigate for the impact of the proposed excavation between the wetland and the excavation.

(d) The Agency ~~District~~ will review modeling results which demonstrate that a gradient equal to or greater than 0.015 will not have an adverse impact on the adjacent wetland. Model input data shall be derived from a detailed soil profile constructed from a minimum of three separate sampling locations with permeability testing results on selected samples. Two-dimensional modeling may be necessary to represent the site geometry.

3.13 ~~6.13~~ Water Supply Sources

An evaluation of the impact of the proposed surface water management system on sources of water supply must be submitted with the surface water management application. Cumulative impacts which may result from the construction and operation of the proposed surface water management system must be evaluated in conjunction with the cumulative withdrawals of existing legal uses of water.

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PART IV – STORMWATER QUALITY

~~5.0 WATER QUALITY CRITERIA~~

4.1 ~~5.1~~ State Standards

Projects shall be designed and operated so that off-site discharges will meet State water quality standards ~~as set forth in Chapter 62-302, F.A.C~~.

4.1.1 How Standards are Applied

The quality of stormwater discharged to receiving waters is presumed to meet the surface water standards in Chapters 62-4 and 62-302, F.A.C., and the groundwater standards in Chapters 62-520 and 62-550 F.A.C., if the system is permitted, constructed, operated and maintained in accordance with Chapter 62-330, F.A.C., and Part III, Part IV, and Part V of this Volume. However, this presumption is rebuttable. The volume of runoff to be treated from a site shall be determined by the type of treatment system. If off-site runoff is not prevented from combining with on-site runoff prior to treatment, then treatment must be provided for the combined off-site and project runoff.

4.1.2 Erosion and Sediment Control Criteria for Stormwater Management Systems

Land clearing activities, including the construction of stormwater management systems, shall be designed, constructed, and maintained at all times so that erosion and sedimentation from the system, including the areas served by the system, do not cause violations of applicable state water quality standards in receiving waters. Further, because sedimentation of offsite lands can lead to public safety concerns, erosion and sediment controls shall be designed and implemented to retain sediment on-site as required by subsection 62-40.432(2), F.A.C. In particular, the erosion and sediment control requirements described in Part IV of Applicant's Handbook Volume I shall be followed during construction of the system.

4.1.3 Direct Discharges to Outstanding Florida Waters

Systems which have a direct discharge to an OFW, must provide an additional fifty percent of the required treatment.

4.2 ~~5.2~~ Retention / Detention Criteria

4.2.1 ~~5.2.1~~ Volumetric Requirements

(a) Retention, detention, or both retention and detention in the overall system, including swales, lakes, canals, greenways, etc., shall be provided for one of the three following criteria or equivalent combinations thereof:

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1. Wet detention volume shall be provided for the first inch of runoff from the developed project, or the total runoff of 2.5 inches times the percentage of imperviousness, whichever is greater.

2. Dry detention volume shall be provided equal to 75 percent of the above amounts computed for wet detention.

3. Retention volume shall be provided equal to 50 percent of the above amounts computed for wet detention. Retention volume included in flood protection calculations requires a guarantee of long term operation and maintenance of system bleed-down ability. Examples of such guarantee include evidence of excellent soil percolation rates, such as coastal ridge sands, or an operations entity which specifically reserves funds for operation, maintenance and replacement (example: Orange County MSTU). (NOTE: Orange County subdivision regulation criteria for retention - published by Orange County in Orange County Subdivision Regulations - may be utilized for Orange County MSTU projects in lieu of Agency ~~District~~ retention criteria where retention volumes exceed one half inch. ~~This information is hereby published by reference and incorporated into this rule.~~)

(b) Systems with inlets in grassed areas will be credited with up to 0.2 inches of the required wet detention amount for the contributing areas. Full credit will be based on a ratio of 10:1 impervious area (paved or building area) to pervious area (i.e. the grassed area) with proportionately less credit granted for greater ratios.

4.2.2 ~~5.2.2~~ Land Use and Coverage Criteria

(a) Commercial or industrial zoned projects shall provide at least one-half ~~one half~~ inch of dry detention or retention pretreatment as part of the required retention / detention, unless reasonable assurances can be offered that hazardous materials will not enter the project's surface water management system. Such assurances include, for example, deed restrictions on property planned for re-sale, type of occupancy, recorded lease agreements, local government restrictive codes, ordinances, licenses, and separate ~~engineered~~ containment systems designed to prevent discharge.

(b) Projects having greater than 40% impervious area and which discharge directly to the following receiving waters shall provide at least one half inch of dry detention or retention pretreatment as part of the required retention/detention. Receiving waters being addressed are:

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1. Lake Okeechobee and the Kissimmee River.

2. Waterbodies ~~Water bodies~~ designated as Class I or Class II waters by the Florida Department of Environmental Protection;

3. Canals back-pumped to Lake Okeechobee or to the Conservation areas, or proposed for back-pumping;

4. Other areas, such as the Savannas in St. Lucie and Martin Counties; the Six Mile Cypress Strand; the Big Cypress area of Collier County; and lands acquired by the District pursuant to Section 373.59, F.S. Water Management Lands Trust Fund (Save Our Rivers); and mitigation bank lands; ~~, as set forth in Section 4.4.~~

5. Outstanding Florida Waters as defined in Chapter 62-302, F.A.C.; and Aquatic Preserves as created and provided for in Chapter 258, F.S.; and

6. Waterbodies ~~Water bodies~~ within a District permitted public water supply wellfield cone-of-depression which are not separated from the aquifer by strata at least ten feet thick and having an average saturated hydraulic conductivity of less than 0.1 foot per day; where the cone-of-depression is defined by one of the following:

   a. in those areas of the District where no local wellfield protection ordinance has been adopted by the local governing body, the one foot drawdown line as expressed in the water table aquifer under conditions of no rainfall and 100 days of pumpage at the permitted average daily pumpage rate (where significant canal recharge is indicated, canal recharge representative of a 1 in 100 year drought will be considered);

   b. Chapter 27, Article XIII, Wellfield Protection Ordinance, Broward County Code of Ordinances, last amended September 28, 1999, http://www.flrules.org/Gateway/reference.asp?No=Ref-00052. This information is incorporated by reference herein and in paragraph 40E-4.091(1)(a), F.A.C. Copies are available at no cost by contacting the South Florida Water Management District Clerk's Office, 3301 Gun Club Road, West Palm Beach, FL 33406 (800) 432-2045, ext. 2087, or (561) 682-2087.

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c. Dade County Wellfield Protection Ordinance contour showing maximum limits (Section 24-43 Protection of Public Potable Water Supply Wells; Chapter 24 Environmental Protection; Code of Metropolitan Dade County, Florida; Codified through Ordinance No. 11-01, enacted January 20, 2011 (Supp. No. 68)) http://www.flrules.org/Gateway/reference.asp?No=Ref-00053. This information is incorporated by reference herein and in paragraph 40E-4.091(1)(a), F.A.C. Copies are available at no cost by contacting the South Florida Water Management District Clerk's Office, 3301 Gun Club Road, West Palm Beach, FL 33406 (800) 432-2045, ext. 2087, or (561) 682-2087.

(c) Water surface and roofed areas can be deducted from site areas only for water quality pervious/impervious calculations. The water surface area meeting dimensional criteria may also be subtracted from the total site area when making final water quality treatment volume calculations.

(d) In cases of widening existing urban public highway projects, the District shall reduce the water quality requirements, if the applicant provides documentation which demonstrates that all reasonable design alternatives have been considered, and which provides evidence that the alternatives are all cost-prohibitive.

(e) Pursuant to subsection 62-555.312(3), F.A.C., stormwater retention and detention systems are classified as moderate sanitary hazards with respect to public and private drinking water wells. Stormwater treatment facilities shall not be constructed within 100 feet of a public drinking water well, and shall not be constructed within 75 feet of a private drinking water well. ~~Projects located within cones of depression - Retention/detention area locations shall not reduce hydraulic recharge distances to public water supply wells in excess of 2 percent, nor shall wet retention/detention areas be closer to public water supply wells than 300 feet.~~

4.3 ~~5.3~~ Incorporation of Natural Areas and Existing Waterbodies ~~Water Bodies~~

~~5.3.1 Natural Water Bodies and Existing Water Bodies~~

Natural areas and existing waterbodies ~~water bodies~~ may be used for retention/detention purposes when not in conflict with environmental (see subsection 10.2.2.4 ~~4.2.2.4~~ of Applicant's Handbook Volume I), water quality, (see Sections 10.2.4 ~~4.2.4 –~~ through 10.2.4.5 ~~4.2.4.5 herein~~ of Applicant's Handbook Volume I) or public use considerations. Candidate areas for such purposes include:

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(a) Previously degraded areas;

(b) Man-made ~~Man made~~ areas such as borrow pits~~, for example~~;

(c) Extensive areas which have the ability to absorb impacts easily; and

(d) Areas incorporated into a system with mitigation features.

4.4 ~~5.4~~ Underground Exfiltration Systems

(a) Systems shall be designed for the retention volumes specified in Section 4.2.1 ~~5.2.1~~ for retention systems, exfiltrated over one hour for retention purposes, prior to overflow, and based on test data for the site. (Note: such systems will not be acceptable on projects to be operated by entities other than single owners or entities with full-time ~~full time~~ maintenance staff.)

(b) A safety factor of two or more shall be applied to the design to allow for geological uncertainties.

(c) A dry system is one with the pipe invert at or above the average wet season water table.

4.5 ~~5.5~~ Sewage Treatment Percolation Ponds

Above-ground ~~Above ground~~ percolation pond dikes shall not be within 200 feet of water management lakes or 100 feet of dry retention/detention areas, or the applicant must provide reasonable assurance that effluent will not migrate into the water management lakes or detention areas. Reasonable assurance may be provided by:

(a) Documentation of volume and rate of application of effluent to the percolation ponds, and

(b) Submittal of net flow analyses.

4.6 ~~5.6~~ Criteria for Creation of Waterbodies ~~Water Bodies~~

The creation of waterbodies ~~water bodies~~ shall meet both of the following criteria:

(a) Entrapped salt water, resulting from inland migration of salt water or penetration of the freshwater/salt water interface, will not adversely impact existing legal water users.

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(b) Excavation of the water body shall not penetrate a water-bearing formation exhibiting poorer water quality for example, in terms of chloride concentrations.

4.7 ~~5.7~~ Impervious Areas

Runoff shall be discharged from impervious surfaces through retention areas, detention devices, filtering and cleansing devices, or subjected to some other type of Best Management Practice (BMP) prior to discharge from the project site. For projects which include substantial paved areas, such as shopping centers, large highway intersections with frequent stopped traffic, and high density developments, provisions shall be made for the removal of oil, grease and sediment from storm water discharges.

4.8 ~~5.8~~ Stagnant Water Conditions

Configurations which create stagnant water conditions such as hydraulically dead end canals are to be avoided, regardless of the type of development.

4.9 ~~5.9~~ Water Quality Monitoring

All new drainage projects will be evaluated based on the ability of the system to prevent degradation of receiving waters and the ability to conform to State water quality standards ~~(see Chapters 62-4 and 62-302, F.A.C.)~~.

4.9.1 ~~5.9.1~~

(a) There are areas within the District where water quality considerations are extremely important, because of the sensitivity of the area. These areas include:

1. Lake Okeechobee and the Kissimmee River.

2. Waterbodies ~~Water bodies~~ designated as Class I or Class II waters by the Florida Department of Environmental Protection.

3. Canals back-pumped to Lake Okeechobee or to the Conservation areas, or proposed for back-pumping.

4. Sensitive areas, such as the Savannas in St. Lucie and Martin Counties, the Six Mile Cypress Strand and Estero Bay Aquatic Preserve in Lee County and the Big Cypress area of Collier County.

5. Outstanding Florida Waters as defined in Chapter 62-302, F.A.C.

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(b) New developments which plan to utilize sensitive areas for disposal of stormwater will be given more detailed evaluation by the Agency ~~District~~ Staff. In addition, new projects entailing a more intensified land use, such as industrial parks, and planning to discharge to a sensitive receiving water, directly or indirectly, shall be required to institute a water quality monitoring program if the applicant is unable to provide adequate assurances (by such means as routing drainage of areas where polluting materials would be located away from the stormwater ~~surface water~~ management system; developing restrictive covenants, or similar documents, which would have the effect of prohibiting polluting materials on the project site; or proposing other methods of assurance) that degradation of the receiving body water quality will not occur. The following listing of land use intensity is in ascending order.

1. Wetlands (including transition zones adjacent thereto)

2. Forested lands

3. Rangeland

4. Agricultural

5. Urban and built-up land

4.9.2 ~~**5.9.2**~~ Monitoring is required for sites with high pollutant generating potential, such as industrial sites, and Class I and II solid waste disposal sites.

4.9.3 ~~**5.9.3**~~ There are two reasons for requiring water quality monitoring by permittees, as follows:

(a) Such data can be used to determine if the pollution abatement practices incorporated into the design for the drainage system are functioning properly.

(b) In some cases there may be a real and immediate concern regarding degradation of quality in the receiving waters, regardless of the apparent pollutant removal efficiency of the drainage system.

4.9.4 ~~**5.9.4**~~ The reason for the monitoring requirement will be stated in the Staff Report for each p~~P~~ermit. Also included in the permit will be the monitoring and reporting schedules and the parameters of interest. Each monitoring program will be designed specifically for the land use or individual project in question and will include applicable surface and ground water sampling. Staff shall specify applicable project specific parameters such as those listed in Chapter 62-302, F.A.C. The applicant shall use a Florida Department of Health certified laboratory for all water quality analysis. ~~The~~

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~~District~~ It is recommended ~~recommends~~ that the applicant submit final results from the laboratory. Examples of records to be supplied are as follows: sample date, sample location with D for discharge or N for no discharge, water discharge rates (cfs) and concentration values of indicated elements or compounds, date and time of analysis.

4.9.5 **~~5.9.5~~** As a general rule, monitoring required of permittees will be confined to points within their boundaries. If additional sampling is needed in order to assess off-site impacts of the projects, the responsible party ~~(the permittee or District)~~ will be named in the permit. The determination of the responsible party will be based upon the accessibility of the monitoring site to the permittee.

4.9.6 **~~5.9.6~~** Applicants are advised that Staff Reports written and Permits issued for projects not requiring monitoring at this time will normally include a statement to the effect that water quality monitoring may be required in the future. This should not be construed as an indication that the Agency ~~District~~ is contemplating the implementation of a program of intensive water quality monitoring by all permittees. If water quality problems develop in specific areas, however, permittees will be put on notice in this manner that they may have to determine the quality of the water which they are discharging.

4.10 ~~5.10~~ Solid Waste Facilities

(a) Stormwater ~~Surface water~~ management systems for Class I and II solid waste facilities, as defined by Chapter 62-701, F.A.C., shall be so designed, constructed, and operated as to maintain the integrity of the landfill at all times (during construction, operation, closure and post closure). Applicant must provide assurances that:

1. All flows will be conveyed at non-erosive velocities;~~,~~

2. The project is designed to minimize erosion.

(b) Design features in support of this requirement include features such as:

1. Slopes adequate to promote runoff but not affect slope stability;~~,~~

2. Intermediate benches or swales which reduce runoff velocities and limit erosion;~~,~~

3. Vegetation of closed portion of landfill.

(c) Class I and II landfill projects shall provide adequate assurance that leachate will not enter the stormwater ~~surface water~~ management system. This assurance may be provided through affirmative demonstration that the requirement of Chapter 62-701, F.A.C. for design and emplacement of

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liners, leachate collection systems, and treatment and disposal of leachate will be met.

(d) Borrow pits shall not be included in the stormwater ~~surface water~~ management system unless the applicant can affirmatively demonstrate that leachate will not enter the borrow pit, and that the water quality standards in Chapters 62-4 and 62-302, F.A.C.), will be met.

(e) Dewatering operations at active, unlined landfills will not be permitted.

(f) For Class I and II landfills the Agency ~~District~~ shall require additional Best Management Practices, such as:

1. Detention in excess of the quantities stated in Section 4.2 ~~5.2~~;

2. Dry detention areas;

3. Dry conveyance swales with adequate dimensions to permit maintenance;

4. Filter mechanisms for additional water quality enhancement prior to discharge;

5. Skimmers in front of discharge structures to restrict discharge of floatable materials;

6. Screw gates on water control structures capable of restricting discharge of poor quality surface water; or~~.~~

7. Vegetation of appropriate portions of the water management system, such as conveyance swales.

(g) To provide information for assessing the need for Best Management Practices at a specific site, Agency ~~District~~ staff will require a hydrogeologic investigation that shall, at a minimum, provide information on:

1. The hydrogeologic properties of the formations underlying the landfill, including aquifer and characteristics, groundwater elevations and direction and rate of groundwater flow;~~,~~

2. Location of existing wells within one-half mile of the site perimeter;~~,~~

3. Locations and specifications of existing or proposed monitor wells;~~,~~

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4. The location and chemical composition of any known leachate plumes.

(h) Applicants should consult with Agency ~~District~~ staff prior to or at pre-application ~~Technical Advisory Committee~~ meetings to determine the specific requirements which will apply for a particular project.

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PART V – WATER MANAGEMENT SYSTEM DESIGN AND CONSTRUCTION CRITERIA

~~7.0 WATER MANAGEMENT SYSTEM DESIGN AND CONSTRUCTION CRITERIA~~

5.1 ~~7.1~~ Discharge Structures

(a) All design discharges shall be made through structural discharge facilities. Earth berms shall be used only to disperse or collect sheet flows from or to ditches, swales~~,~~ or other flow conveyance mechanisms ~~etc.,~~ served by discharge structures.

(b) Discharge structures shall be fixed so that discharge cannot be made below the control elevation, except that emergency devices may be installed with secure locking devices. Use of emergency devices must be coordinated with Agency ~~District~~ personnel prior to opening or as soon as possible thereafter. The Agency's ~~District's~~ Executive Director or secretary is authorized to specify the use of emergency devices pursuant to R~~r~~ule 40E-1.611, F.A.C.

(c) Discharge structures must be non-operable unless approved otherwise.

(d) ~~The District~~ It is recommended ~~recommends~~ that discharge structures include gratings for safety and maintenance purposes. The use of trash collection screens is desirable.

(e) Discharge structures shall include a baffle system to encourage discharge from the center of the water column rather than the top or bottom. Discharge structures from areas with greater than 50 percent impervious area or from systems with inlets in paved areas shall include a baffle, skimmer, or other mechanism suitable for preventing oil and grease from discharging to or from retention/detention areas. Designs must assure sufficient clearance between the skimmer and concrete structure or pond bottom to ensure that the hydraulic capacity of the structure is not affected.

(f) Direct discharges, such as through culverts, stormdrain, and weir structures, will be allowed to receiving waters which by virtue of their large capacity, or configuration are easily able to absorb concentrated discharges. Such receiving waters include existing storm sewer systems and man-made ditches, canals and lakes.

(g) Indirect discharges, such as overflow and spreader swales, are required where the receiving water or its adjacent supporting ecosystem might be degraded by a direct discharge. The discharge structure would therefore

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discharge, for example, into the overflow or spreader swale, which in turn would release the water to the actual receiving water. Such receiving waters include, for example, natural streams, lakes, wetlands and land naturally receiving overland sheetflow. Spreader swales shall be of a length sufficient to reduce discharge velocities to the receiving waters to historic rates or rates less than two feet per second.

(h) Pumped systems will only be allowed for single owner or governmental agency operation entities, unless perpetual operation ability can be assured.

5.2 ~~7.2~~ Control Devices/Bleed-down Mechanisms for Detention Systems

(a) Agency ~~District~~ criteria require that gravity control devices shall be sized based upon a maximum design discharge of one half inch of the detention volume in 24 hours. The devices shall incorporate dimensions no smaller than 6 square inches of cross sectional area, two inches minimum dimension, and 20 degrees for "V" notches. Systems which are limited by a discharge structure with an orifice no larger than the minimum dimensions described herein shall be presumed to meet the discharge quantity criteria except for projects which are required to have zero discharge. Applicants are advised that local drainage districts or local governments may have more stringent gravity control device criteria.

(b) Gravity control devices shall be of a "V" or circular shaped configuration whenever possible, to increase detention time during minor events.

(c) Pumped control devices, if pump discharge is permitted, shall be sized based on a design discharge of 20 percent of the detention volume in one day.

5.3 Retention systems

5.3.1 Description

Stormwater retention works best using a variety of retention systems throughout the project site. Examples of retention systems include:

- Man-made or natural depressional areas where the basin bottom is graded flat and turf is established to promote infiltration and stabilize the basin slopes;
- Shallow landscaped areas designed to store stormwater; and
- Vegetated swales with swale blocks or raised inlets.

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Soil permeability and water table conditions must be such that the retention system can percolate the desired runoff volume within a specified time following a storm event. After drawdown has been completed, the basin shall not hold any water, thus the system is normally "dry." Unlike detention basins, the treatment volume for retention systems is not discharged to surface waters.

Besides pollution control, retention systems can be utilized to promote the recharge of ground water to prevent saltwater intrusion in coastal areas or to maintain groundwater levels in aquifer recharge areas.

5.3.2 Retention Basin Construction

Since stormwater management systems are often exposed to poor quality surface runoff during construction and fine particles of clay, silt, and organics at the bottom of a retention basin create a poor infiltrating surface, retention basin construction methods and the overall sequence of site construction must retain the effectiveness of retention basins and assure that the basin is not rendered inoperable prior to completion of site development.

5.3.3 ~~7.3~~ Dry Retention/Detention Areas (Not Applicable to Natural or Mitigation Wetland Areas)

(a) Dry retention/detention areas shall have mechanisms for returning the groundwater level in the area to the control elevation. The bleed-down rate for these systems is the same as in section 5.2.(a) ~~7.2.(a)~~, herein.

(b) Mosquito control ditches or other appropriate features for such purpose, shall be incorporated into the design of dry retention/detention areas.

(c) The design of dry retention/detention areas shall incorporate considerations for regular maintenance and vegetation harvesting procedures.

5.4 Wet Detention Design and Performance Criteria

5.4.1 Pond Configuration

The flow path of water from the inlets to the outlet of the pond must be maximized to promote good mixing with no dead spots, minimize short circuiting, and maximize pollutant removal efficiency and mixing.

If short flow paths are unavoidable, the effective flow path can be increased by adding diversion barriers such as islands, peninsulas, or baffles to the pond. Inlet structures shall be designed to dissipate the energy of water entering the pond.

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5.4.2 ~~7.4~~ Wet Retention/Detention Area Dimensional Criteria (As Measured at or from the Control Elevation)

(a) Area - 0.5 acre minimum

(b) Width - 100 feet minimum for linear areas in excess of 200 feet length. Irregular shaped areas may have narrower reaches but shall average at least 100 feet.

(c) Depth - Shallow, littoral areas are desirable for water quality enhancement purposes. Such areas are defined for purposes of this criteria as the portion of wet retention/detention bodies shallower than 6 feet as measured from below the control elevation. The minimum shallow, littoral area shall be the lesser of 20 percent of the wet retention/detention area or 2.5 percent of the total of the retention/detention area (including side slopes) plus the basin contributing area. ~~It is recommended that 25 to 50 percent of the wet retention/detention area be deeper than 12 feet.~~

(d) Side slopes for wet retention/detention and attenuation areas - for purposes of public safety, water quality enhancement and maintenance, all wet retention /detention areas shall be designed with side slopes no steeper than 4:l (horizontal:vertical) from top of bank out to a minimum depth of two feet below the control elevation, or an equivalent substitute. Constructed side slopes steeper than 3.5:1 (horizontal:vertical) shall be considered a substantial deviation during the consideration of operation permit issuance. Side slopes shall be topsoiled, and stabilized through seeding or planting from 2 feet below to 1 foot above the control elevation to promote vegetative growth. Side slope vegetation growth survival shall be a consideration of operation permit issuance. Side slope dimensional criteria for above ground impoundments are set forth in Appendix B ~~6~~.

(e) Alternative Side Slope Criteria for Golf Course Wet Retention/Detention Areas Adjacent to Tee Areas, Bunkers, and Greens - The design and final constructed side slopes adjacent to tee areas, bunkers, and greens contiguous to golf course wet retention/detention areas shall be no steeper than 2:1 (horizontal:vertical) for the area above the permitted control elevation. For purposes of this rule, the tee area is limited to an area specifically constructed and designated as the location from which a golfer makes his/her first shot toward a designated hole. The green is the area of shortest grass around the hole. Bunkers (sand traps) consist of a prepared area of ground, often a hollow, from which turf or soil has been removed and replaced with sand-like material.

For those portions of the wet retention/detention areas adjacent to tee areas, bunkers, and greens with final constructed side slopes steeper than

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3.5:1 (horizontal:vertical), the final constructed side slopes below the control elevation shall not be steeper than 8:1 (horizontal:vertical) to a depth of two feet below the control elevation or equivalent substitute. Side slopes shall be topsoiled and stabilized through seeding or planting from 2 feet below to 1 foot above the control elevation. Side slope vegetation growth survival shall be a consideration of operation permit issuance.

(f) Bulkheads - Bulkheads shall be allowed for no more than 40 percent of the shoreline length, but compensating littoral zone must be provided based on appropriate maximum allowable side slope including local government requirements.

5.5 ~~7.5~~ Maintenance Access and Easements

Minimum perimeter maintenance and operation easements of 20 feet width at slopes no steeper than 4:l (horizontal:vertical) shall be provided beyond the control elevation water line. These easements shall be legally reserved to the operation entity and for that purpose by dedication on the plat, deed restrictions, easements, or other equivalent documents, so that subsequent owners or others may not remove such areas from their intended use. Water management areas, including 20 foot wide maintenance easements at a minimum, shall be connected to a public road or other location from which operation and maintenance access is legally and physically available.

5.6 ~~7.6~~ Exfiltration Systems

5.6.1 Description

In an exfiltration system, stormwater shall pass through a perforated pipe and infiltrate through the trench walls and bottom into the shallow groundwater aquifer thereby increasing the storage available in the trench and promoting infiltration by making delivery of the runoff more effective and evenly distributed over the length of the system.

When an exfiltration trench is utilized, soil permeability and water table conditions must be such that the trench system can percolate the required stormwater runoff treatment volume within a specified time following a storm event. The trench system shall be returned to a normally "dry" condition when drawdown of the treatment volume is completed. Like retention basins, the treatment volume in exfiltration trench systems shall not be discharged to surface waters.

Besides pollution control, exfiltration trench systems can be utilized to promote the recharge of ground water and to prevent saltwater intrusion in coastal areas, or to maintain groundwater levels in aquifer recharge areas.

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5.6.2 Construction

During construction, measures must be taken to limit the parent soil and debris entering the trench. The use of an aggregate with minimal fines is recommended.

Exfiltration systems must conform with the following requirements:

(a) Pipe diameter - 12" minimum;

(b) Trench width - 3' minimum;

(c) Rock in trench must be enclosed in filter material, at least on the top and sides; and~~.~~

(d) Maintenance sumps in inlets.

5.7 ~~8.0~~ REQUIRED DESIGN INFORMATION AND ASSUMPTIONS

5.7.1 ~~8.1~~ Antecedent Conditions

Antecedent conditions shall be average wet season elevations for water table or other water surfaces.

5.7.2 ~~8.2~~ Rainfall

Distributions and intensities should be consistent with one or more of these Reference Sources:

(a) Appendix C of this Handbook, Isohyetal Maps from SFWMD Technical Memorandum, *Frequency Analysis of One and Three Day Rainfall Maxima for central and southern Florida*, Paul Trimble, October 1990 ~~(see Appendix C for rainfall maps from this document)~~ and the following distribution table:

Time (hours)	Cumulative Percentage of Peak One Day Rainfall
0	0
24	14.6
48	35.9
58	57.2
59	62.8
59.5	67.8

100% One Day Rainfall

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59.75	82.8
60	101.5
60.5	108.8
61	112.6
62	117.7
72	135.9

(b) Actual gage data analyzed by accepted statistical methods,

(c) U.S. Department of Agriculture, Soil Conservation Service, "Rainfall Frequency Atlas of Alabama, Florida, Georgia and South Carolina for Durations from 30 Minutes to 24 Hours and Return Periods from 1 to 100 years" (1978 ~~1973~~) (hyperlink), incorporated by reference herein and in Rule 40E-4.091, F.A.C.

(d) Florida Department of Transportation "Drainage Manual, Appendix B: IDF Curves, Precipitation Data, Rainfall Distributions" (August 2001) (hyperlink), incorporated by reference herein and in Rule 40E-4.091, F.A.C. ~~(Second Edition, revised 1978) Revised Rainfall Intensity Curves per Directive No. 0736-01-79~~.

Copies of the materials incorporated by reference in (c) and (d) above are available at no cost by contacting the South Florida Water Management District Clerk's Office, 3301 Gun Club Road, West Palm Beach, FL 33406, (800) 432-2045, ext. 2087, or (561) 682-2087.

5.7.3 ~~8.3~~ Evapotranspiration

Amounts can be estimated as follows:

(a) Groundwater depth 0 to 1' - 0.3" ET/day

(b) Groundwater depth 1' to 2.5' - 0.2" ET/day

(c) Groundwater depth 2.5' to 4' - 0.1" ET/day

(d) Groundwater depth below 4' - 0" ET/day

5.7.4 ~~8.4~~ Storage

5.7.4.1 ~~8.4.1~~ Open Surface

If open surface storage is to be considered in the review, the Applicant shall submit stage-storage computations. If open surface storage plus discharge is to be considered,

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the stage- discharge computations shall also be submitted. Actual rather than allowable discharges shall be used in routing. For the more extreme events, such as 100 year frequency, discharge should be ignored because the high tail water stage in the receiving water effectively prevents any but a negligible discharge. In such cases a mass accounting of on-site water will suffice, if the applicant can demonstrate that no adverse impacts will occur to adjacent areas.

5.7.4.2 ~~8.4.2~~ Ground

The Soil Conservation Service has made the following estimate of soil storage capability for the normal sandy soils found within the District in their average natural state:

Depth to Water Table	Cumulative Water Storage
1'	0.6"
2'	2.5"
3'	6.6"
4'	10.9"

(a) For the same sandy soils which have been compacted intentionally or incidental to earthwork operations, the cumulative storage shall be reduced 25 percent. An applicant may submit site-specific soil storage capability data.

(b) Groundwater storage beneath impervious surfaces generally appears impractical to any great degree because of the trapped air which water cannot displace. It further appears impractical below four feet depths, except in high sandy coastal ridge areas, because of the relationship between infiltration rates and runoff rates in most parts of south Florida.

5.7.5 ~~8.5~~ Infiltration and Percolation

~~5.7.5.1 8.5.1 Ground Surface~~

~~Ground surface infiltration will be reviewed on the basis of commonly accepted procedures such as those of Soil Conservation Service (see U.S. Department of Agriculture, Soil Conservation Service Technical Paper No. 149, "A Method for Estimating Volume and Rate of Runoff in Small Watersheds" (1973), and U.S. Department of Agriculture, Soil Conservation Service Technical Release No. 55, "Urban Hydrology for Small Watersheds" (1975); or Rational Method (see Florida State Department of Transportation, "Drainage Manual" (2nd Edition, rev. 1978)); or standard Civil Engineering textbooks), unless test data are submitted to justify other procedures.~~

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5.7.5.2 ~~8.5.2~~ Subsurface

Subsurface exfiltration will be reviewed only on the basis of representative or actual test data submitted by the Applicant. Test parameters such as elevation, location, and soils, shall be consistent with those of the designed system. The Dade County Department of Environmental Resource Management and Florida Department of Transportation are suggested as reference sources to Applicants for test procedures and design and maintenance performance of subsurface exfiltration systems.

5.7.6 ~~8.6~~ Runoff

The usual methods of computation are as follows:

(a) Rainfall minus losses and storage.

(b) ~~Soil Conservation Service (see~~ U.S. Department of Agriculture, Natural Resources ~~Soil~~ Conservation Service, "National Engineering Handbook, Section 4, Part 630, Chapter 10 ~~Hydrology"~~ – 2004 ~~1972~~) (hyperlink)~~, with extra attention to hydrologic accounting of water table conditions. Peak factors used for natural systems~~ shall not exceed "257" unless project specific site conditions warrant use of a larger peak factor.

(c) Rational method, for water quality retention/detention purposes.

Copies of the material referenced in (b) above is available at no cost by contacting the South Florida Water Management District Clerk's Office, 3301 Gun Club Road, West Palm Beach, FL 33406, (800) 432-2045, ext. 2087, or (561) 682-2087.

5.7.7 ~~8.7~~ Receiving Water Stage

(a) Tailwater for Water Quantity Design

Stormwater management systems must consider tailwater conditions. Receiving water stage can affect the amount of flow that will discharge from the project to the receiving water. This stage may be such that tailwater exists in portions of the project system, reducing the effective flow or storage area.

The stage in the receiving water shall be considered to be the maximum stage which would exist in the receiving water from a storm equal to the project design storm. Lower stages may be used if the applicant can show that the flow from his project will reach the receiving water prior to the time of maximum stage in the receiving water.

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(b) ~~**8.7.1**~~ Regulated Systems

Applicants are advised that design and maintained stage elevations are available either from the respective local jurisdiction or the Agency ~~District~~. Stages for the Agency's ~~District's~~ system for frequencies other than the design will be estimated by the Agency ~~District~~ upon request from the Applicant.

(c) ~~**8.7.2**~~ Non-regulated Systems

It is recommended that the Applicant compute receiving water stages for such systems from the best available data and submit the results to the Agency ~~District~~ for review and concurrence before utilizing such results in further computations.

(d) ~~**8.7.3**~~ Any System

Variable tailwater stages shall be considered if they have a significant influence on the design.

5.7.8 Runoff Coefficient and Curve Number for Stormwater Management Ponds

Stormwater management ponds, including dry retention ponds, detention ponds with filtration, dry detention ponds with underdrains, and wet detention ponds, shall be considered as impervious area for calculating composite runoff coefficients (C), and composite curve numbers.

5.8 Inspection and Maintenance

Inspection and maintenance standards are described in **section 12.4 of Volume I** and Rule 62-330.311, F.A.C. See **Appendix B** for inspection and reporting requirements for above-ground impoundments.

~~**8.8 Discharge**~~

~~**8.8.1 Allowable Discharges**~~

~~For the purpose of meeting maximum allowable discharges, peak discharges shall be computed as the maximum average discharge over a time period equal to the time of concentration of the contributory area, unless project specific conditions warrant an alternate methodology.~~

~~**8.8.2 Non-urban Gravity Systems**~~

~~Rural gravity systems which are to be connected to District facilities are reviewed on the basis of the discharge culvert operating at a fixed head loss to meet the allowable~~

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~~discharge rate. This basis is justified by the estimate that the upstream headwater generated by rural runoff will be unable to collect at the upstream culvert end appreciably faster than the rate at which the receiving water rises. The fixed head loss amounts are 0.5' except in south Dade County (south of Canal C-2) where the value is 0.2'.~~

~~9.0 OPERATING ENTITY REQUIREMENTS~~

~~9.1 General Requirements –~~

~~(a) The District considers the following entities acceptable to satisfy permit limiting condition 40E-4.381(1)(h):~~

~~1. Local governmental units including counties or municipalities, or Municipal Service Taxing Units.~~

~~2. Active Chapter 298, F.S. water control districts or drainage districts, or Chapter 190, F.S. Community Development Districts or Chapter 170, F.S. Special Assessment Districts.~~

~~3. Non-profit corporations including homeowners associations, property owners associations, condominium owners associations or master associations.~~

~~4. The property owner or developer as Permittee is normally not acceptable as a responsible entity if the property is to be sold to various third parties. However, the property owner or developer will be acceptable under one of the following circumstances:~~

~~a. The property is wholly owned by said Permittee and is intended to be so retained. This would apply to a farm, corporate office or single industrial facility for example.~~

~~b. The ownership of the property is retained by the Permittee and is either leased or rented to third parties such as in the case of most shopping centers, apartments or mobile home park lots.~~

~~(b) To satisfy permit limiting condition paragraph 40E-4.381(1)(h), F.A.C., the Permittee must supply appropriate written proof, such as either by letter or resolution from the governmental entity that the governmental entity will accept the operation and maintenance of all the surface water management system components; or draft corporation/association documents prior to staff report approval. For Class I and II solid waste~~

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~~sites the entity will be responsible for perpetual maintenance of the surface water management system after closure of the facility.~~

~~9.2 Association Requirements –~~

~~9.2.1~~ ~~If a Homeowners or Property Owners Association or Master Association is proposed, the Permittee must submit the draft Articles of Incorporation and the Declaration of Protective Covenants or Deed Restrictions, as well as a reference map if referred to in the documents, for review and staff approval of the provisions meeting the requirements of this section. The Permittee must submit a recorded copy of the Deed Restrictions and associated exhibits, a filed copy of the Articles of Incorporation and a copy of the Certificate of Incorporation prior to or simultaneous with the submittal of the Construction Completion/Construction Certification statement.~~

~~9.2.2~~

~~(a) If a Condominium Association is proposed, the Permittee must submit the draft Articles of Incorporation and the Declaration of Condominium, as well as a reference map if referred to in the documents, for review and staff approval of the provisions meeting the requirements of this section. The Permittee must submit a recorded copy of the Declaration of Condominium and associated exhibits, a filed copy of the Articles of Incorporation and a copy of the Certificate of Incorporation prior to or simultaneous with the submittal of the Construction Completion/Construction Certification statement.~~

~~(b) Compliance with the requirements of this section does not relieve the permittee of its duty to comply with the applicable provisions of Florida laws, specifically Chapters 617 or 718, F.S.~~

~~9.2.3~~ ~~The Association must have the following general powers and attributes, which shall be reflected in the Articles of Incorporation or other documents of record:~~

~~(a) Own and convey property.~~

~~(b) Operate and maintain common property, specifically the surface water management system as permitted by the South Florida Water Management District including all lakes, retention areas, culverts and related appurtenances.~~

~~(c) Establish rules and regulations.~~

~~(d) Assess members and enforce said assessments.~~

~~(e) Sue and be sued.~~

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~~(f) Contract for services (if the Association contemplates employing a maintenance company) to provide the services for operation and maintenance.~~

~~(g) The Association must have as members all the homeowners, lot owners, property owners or unit owners.~~

~~(h) The Association shall exist in perpetuity; however, if the Association is dissolved, the Articles of Incorporation must provide that the property consisting of the surface water management system and the right of access to the property containing the surface water management system shall be conveyed to an appropriate agency of local government. If it is not accepted, then the surface water management system must be dedicated to a similar non-profit corporation.~~

~~**9.2.4** The Association must have the following covenants and restrictions, which shall be set forth in the Declaration of Protective Covenants, Deed Restrictions, Declaration of Condominium, or other recorded document which sets forth the Association's rules and regulations:~~

~~(a) That it is the responsibility of the Association to operate and maintain the surface water management system.~~

~~(b) The surface water management system is owned by the Association or described therein as common property.~~

~~(c) That there be a method of assessing and collecting the assessment for operation and maintenance of the surface water management system.~~

~~(d) That any proposed amendment to the association's documents, which would affect the surface water management system (including environmental conservation areas and the water management portions of the common areas) must be submitted to the District for a determination of whether the amendment necessitates a modification of the environmental resource or surface water management permit. If a modification is necessary, the District will so advise the permittee. The amendment affecting the surface water management system may not be finalized until any necessary permit modification is approved.~~

~~(e) That the rules and regulations be in effect for at least 25 years with automatic renewal periods thereafter.~~

~~(f) If wetland mitigation monitoring will be required and the operational entity will be responsible to carry out this obligation, the rules and regulations~~

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~~shall state that it will be the association's responsibility to complete the task successfully, including meeting all conditions associated with mitigation maintenance and monitoring.~~

~~(g) A Notice of Environmental Resource Permit or Surface Water Management Permit Form No. 1189, incorporated by reference in subsection 40E-4.101(2), F.A.C., shall be recorded in the public records of the County(s) where the property is located. The Registered Agent for the Association shall maintain copies of all permitting actions for the benefit of the association.~~

~~(h) The District has the right to take enforcement action, including a civil action for an injunction and penalties, against the association to compel it to correct any outstanding problems with the surface water management system facilities or in mitigation or conservation areas under the responsibility or control of the association.~~

~~**9.2.5** Deviation from or modification to, the association requirements can only be based upon:~~

~~(a) Intervening local government requirements of a more stringent nature such as the requirement of a maintenance agreement and posting of bond by the developer.~~

~~(b) The uniqueness of the project requiring an alternative entity. Such alternative entity must be evaluated upon an individual basis with any and all necessary agreements or easements in effect before approval will be given.~~

~~**9.2.6** Phased projects shall be subject to the following additional requirements:~~

~~(a) If a master property owner's association is proposed for a project which will be constructed in phases, and subsequent phases will utilize the surface water management system for the initial phase or phases, the association must be created with the ability to accept future phases into the association.~~

~~(b) If the development scheme contemplates independent associations for different phases, but proposes an interdependent water management system for the different phases, one of the following alternatives must be chosen by the applicant for setting up the operating entities:~~

~~1. A master association must be formed which includes all of the various associations within the project, with the master association~~

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~~having the responsibility and legal ability to operate and maintain the surface water management system for the entire project.~~

~~2. If no master association is proposed, each entity which will operate and maintain a portion of an integrated surface water management system must have cross easements for drainage, ingress and egress capabilities, and the ability to enter and maintain the various portions, should any sub association fail to operate and maintain the portion of the surface water management system within their boundaries. A definition of operation and maintenance responsibilities between the entities shall be included in any such document.~~

~~(c) If the master association delegates primary responsibility for operating the portion of the surface water management system to a sub association, all association documents shall clearly define that the master association has ultimate authority and responsibility to enter, maintain and operate the surface water management system should any sub association fail to do so.~~

~~(d) If the project contains a golf course, the owner/operator must be a member of the association. Association documents must reflect this relationship.~~

~~10.0 SURFACE WATER MANAGEMENT SYSTEM CERTIFICATION AND OPERATION~~

~~10.1 Construction Completion Certification~~

~~(a) Within 30 days of completion of the surface water management system construction, a Florida licensed professional engineer shall certify that the construction was completed and that the system was constructed in substantial conformance with the plans and specifications approved by the District. The above requirement shall be met by submittal of a completed and executed Environmental Resource/Surface Water Management Permit Construction Completion Certification Form No. 0881A, December 2011, incorporated by reference in paragraph 40E-4.361(1)(b), F.A.C., or equivalent.~~

~~(b) The District recognizes that Form No. 0881A does not apply to all water management systems. If Form No. 0881A does not apply to a particular system, then a certification confirming the constructed dimensions of that system, such as lengths, diameters and elevations must be provided. The following certification statement must also appear on the certification report:~~

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~~I HEREBY NOTIFY THE DISTRICT OF THE COMPLETION OF CONSTRUCTION OF ALL THE COMPONENTS OF THE SURFACE WATER MANAGEMENT FACILITIES FOR THE ABOVE REFERENCED PROJECT AND CERTIFY THAT THEY HAVE BEEN CONSTRUCTED IN SUBSTANTIAL CONFORMANCE WITH THE PLANS AND SPECIFICATIONS PERMITTED BY THE DISTRICT. [A COPY OF THE APPROVED PERMIT DRAWINGS IS ATTACHED WITH DEVIATIONS NOTED, IF APPLICABLE.] I HEREBY AFFIX MY SEAL THIS _____ DAY OF _____, _____. (REFERENCE 373.117, 373.419 F.S.)~~

~~(c) If no deviations are detected by the certifying engineer, copies of the approved permit drawings need not be submitted.~~

~~(d) The District will accept Environmental Resource/Surface Water Management Permit Construction Completion Certification Form No. 0881B, December 2011, incorporated by reference in paragraph 40E-4.361(1)(b), F.A.C., or equivalent, for surface water management systems with wet retention/detention areas for projects permitted prior to October 3, 1995 provided that:~~

~~1. Existing side slopes are no steeper than 2:1 (horizontal:vertical) from top of bank out to a minimum depth of two feet below the control elevation, except at headwalls, and/or other structural connections;~~

~~2. The surface water management system currently functions as intended, consistent with the permitted surface water management system, including level of water quality treatment, level of flood protection, and storm attenuation;~~

~~3. The wet retention/detention area side slopes have been adequately maintained and stabilized to support the operation of the surface water management system;~~

~~4. All other components and facilities associated with the permitted surface water management system are certified as being constructed in substantial conformance with the plans and specifications permitted by the District;~~

~~5. Form 0881B is signed and sealed by a Florida licensed Professional Engineer.~~

~~10.2 Construction Completion Certification for Phased Projects –~~

~~In addition to the above, certification of phases within a project will be acceptable if:~~

~~(a) The backbone drainage facilities have been constructed and certified; or~~

~~(b) The professional engineer or other individual authorized by law has provided documentary evidence that the certified phase can function satisfactorily and permanently independent of the backbone system.~~

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~~10.3 Operation Phase Becoming Effective –~~

~~The operation phase of a project shall not become effective until the construction or provision of the required mitigation/compensation is complete.~~

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APPENDICES

Appendix A- ~~2~~ SFWMD - Allowable Discharge~~s~~ Formulas ~~for South Florida Water Management District Canals~~

~~Appendix 3 Urban Retention/Detention~~

Appendix B- ~~6~~ Above Ground Impoundments

Appendix C- Isohyetal Maps from SFWMD Technical Memorandum, *Frequency Analysis of One and Three Day Rainfall Maxima for central and southern Florida,* Paul Trimble, October 1990.

Appendix D- SFWMD Basins for Cumulative Impact Assessments & Mitigation Bank Service Areas

~~NOTE: Appendices 2, 3, and 6, above, were previously adopted and incorporated into the document entitled "Basis of Review for Surface Water Management Permit Applications Within the South Florida Water Management District - March, 1994". Appendices 1, 4, 5, 7 and 8 of that document have been repealed.~~

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Appendix A- ~~2~~ SFWMD - ALLOWABLE DISCHARGE FORMULAS

Canal	Allowable Runoff	Design Frequency
C-1	$Q = (\frac{112}{\sqrt{A}} + 31)\,A$	10 year
C-2	Essentially unlimited inflow by gravity connections southeast of Sunset Drive: 54 CSM northwest of Sunset Drive	200 year +
C-4	Essentially unlimited inflow by gravity connections east of S.W. 87th Avenue	200 year +
C-6	Essentially unlimited inflow by gravity connections east of FEC Railroad	200 year +
C-7	Essentially unlimited inflow by gravity connection	100 year +
C-8	Essentially unlimited inflow by gravity connection	200 year +
C-9	Essentially unlimited inflow by gravity connection east of Red Road; 20 CSM pumped, unlimited gravity with development limitations west of Red Road or Flamingo Blvd.	100 year +
C-10	----------	200 year +
C-11	20 CSM west of 13A;40 CSM east of 13A	----------
C-12	90.6 CSM	25 year
C-13	75.9 CSM	25 year
C-14	69.2 CSM	25 year
C-15	70.0 CSM	25 year
C-16	62.6 CSM	25 year
C-17	62.7 CSM	25 year
C-18	41.6 CSM	25 year
C-19	57.8 CSM	----------
C-23	31.5 CSM	10 year
C-24	30.25 CSM	10 year
C-25	$Q = (\frac{47}{\sqrt{A}} + 28)\,A$ (Under Review)	10 year
C-38	31.1 CSM (subject to restrictions of Basin Rule)	10 year
C-40, 41, 41A	35.4 CSM	10 year
Hillsboro Canal (east of S-39)	35 CSM	25 year
North New River (east of S-34)	70.8 CSM	25 year
Everglades Ag. Area (all canals)	20 CSM	5 year
L-28	11.8 CSM	----------
C-51	35 CSM east of Turnpike; 27 CSM west of Turnpike (subject to restrictions of Basin Rule)	10 year
C-100, 100A, 100B, 100C, 100D:	$Q = (\frac{104}{\sqrt{A}} + 43)\,A$	10 year
C-102	$Q = (\frac{119}{\sqrt{A}} + 25)\,A$	10 year
C-103N, C103-S	$Q = (\frac{107}{\sqrt{A}} + 39)\,A$	10 year

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C-110	$Q = \left(\frac{137}{\sqrt{A}} + 9\right) A$	10 year
C-111	$Q = \left(\frac{117}{\sqrt{A}} + 29\right) A$	10 year
C-113	$Q = \left(\frac{104}{\sqrt{A}} + 3\right) A$	10 year

Definitions:

Q = Allowable runoff in cfs (cubic feet per second) CSM = cfs per square mile

A = Drainage area in square miles

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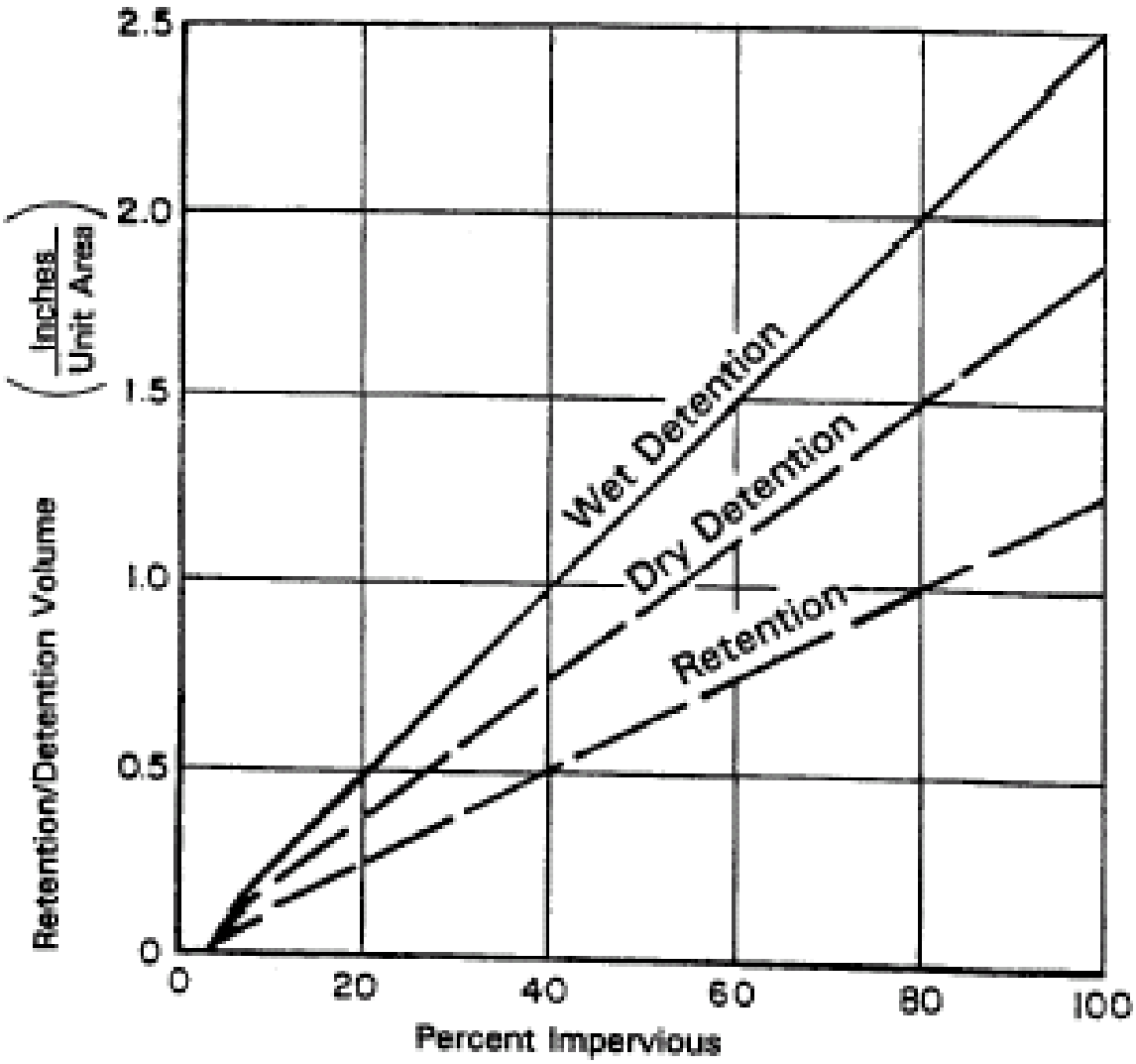
APPENDIX 3

URBAN RETENTION/DETENTION

Note: Storage Required Is In Addition To Normal Street & Lot Swales Which Have Already Been Accounted For In Preparation Of Curve.

(Reference: 3.2.2.2)



Separate Storage Required For Grass Swale Systems

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APPENDIX B- ~~6~~ ABOVE GROUND IMPOUNDMENTS

1.0 INTRODUCTION

1.1 Purpose

This Appendix to the Applicant's Handbook Volume II for use within the geographic limits of the ~~South Florida Water Management District's Basis of Review for Surface Water Management Permit Applications~~ has been prepared to elaborate on the criteria and standards applicable to above ground impoundments in accordance with the definition and requirements for "dams" in Part IV of Chapter 373, F.S. The content herein is not intended to be all inclusive of all possible situations, but is intended to provide guidelines and basic performance criteria wherever possible on design criteria for the situations commonly encountered for most typical south Florida situations. Because dam performance is a function of construction, operation and maintenance as well as design, information on those subjects is included. The basic responsibility for dam performance remains vested in the owner or permittee through appropriate representation by his registered professional ~~engineer~~ in accordance with State laws.

1.2 Classification

Upon request or application receipt District staff will classify impoundments or dams as "Major" or "Minor" for application review purposes in accordance with the following provisions:

1.2.1 Major - Impoundments located where failure would cause significant damage to the property of other than the permittee, could involve loss of human life, would create a public health hazard, or would cause irreversible environmental or water quality damage; maximum water depths above surrounding ground levels would generally exceed four feet.

1.2.2 Minor - Impoundments generally located in rural areas where failure would generally limit significant damage to the property of the permittee, would not involve loss of human life, would not create a public health hazard, and would not cause irreversible environmental or water quality damage; maximum water depths above surrounding ground levels would generally be limited to four feet, except where dam break analysis influence lines (six inch depth and two feet per second velocity) are limited to the land of the permittee and others, including the public, are not involved. It may be necessary that the permittee's land be legally restricted by such means as a unity of title to insure perpetual single ownership.

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1.3 Certification responsibility

1.3.1 Major impoundments are considered to be individually engineered structures involving the disciplines of geotechnical, soils, foundation, and/or structural engineering and are therefore required to be certified in accordance with State law by registered professionals ~~individuals or firms expert in such disciplines~~.

1.3.2 Minor impoundments are considered to be general site improvements and may therefore be certified in accordance with State law as part of the overall surface water management system by registered professionals ~~individuals or firms with expertise in disciplines such as general civil and/or agricultural engineering~~.

1.4 Information submittals

1.4.1 Major impoundments require the submittal of all design, construction, operation and maintenance information necessary for complete review of the impoundment. Information to be submitted in addition to design calculations includes:

a. Proposed construction schedule
b. Safe filling and draining schedules
c. Design of seepage and water level monitoring programs
d. Operation and maintenance manual
e. Influence lines for dam break analysis (6 inch depth and 2 feet per second velocity)
f. Emergency response and evacuation plan (if appropriate)

Review by the District will be done for purposes of confirming that reasonable assurances are offered that the intent of District policies and general engineering principles will be met. The review is not intended to supplant the registered professional's ~~certifying engineer's~~ initiative, judgment ~~judgement~~, expertise, experience and/or responsibility. When necessary the District may retain outside expertise to participate in the review.

1.4.2 Minor impoundments require only the submittal of the usual surface water management permit information ~~as enumerated in Appendix 1 (according to any specific standards herein) unless unusual circumstances exist~~. It is understood that the registered professional ~~certifying engineer~~ may perform calculations, tests, etc. for his/her own purposes or to meet State law and which may not be submitted.

2.0 DESIGN GUIDELINES

2.1 Major impoundments

2.1.1 Structural stability - All elements and appurtenant works for impoundments shall be designed for all possible conditions up to and including maximum water depths and

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in accordance with generally accepted engineering principles for such works, which include consideration of site preparation, construction materials, geological conditions, storm conditions, settlement, erosion, operation and maintenance and vandalism. More specific guidelines are as follows:

2.1.1.1 Dikes - shall be designed based on field test data of subsurface conditions and actual procedures and materials to be used in construction. Seepage and piping shall be considered and cutoff walls and toe drains included where necessary. Dimensions shall be such as to allow maintenance by normal equipment. Recommended side slopes for vegetated earth should be no steeper than 2 1/2:1 (horizontal to vertical) for external slopes and 3:1 (horizontal to vertical) for internal slopes. Top widths should be of sufficient width to allow safe vehicular access and no less than twelve feet. Dike toes should be continually accessible by vehicle by relatively level to berms of at least ten feet width. Dikes and toe berms should be widened at strategic points for vehicular turnaround or where necessary to load stockpiled material to be used for dike repair.

2.1.1.2 Structures - Discharge and other structures should be located to be accessible from the top of the dike during storm conditions for emergency operation and maintenance if necessary. They should be of permanent low maintenance materials, preferably reinforced concrete. The location and design should be such that dike integrity is maintained. Trash racks, seepage rings and vandalism protection should be included. A preferable design would consist of an inlet box which does not interfere with normal dike sideslopes and a conduit under the dike to an outfall endwall. Erosion protection, energy dissipators, etc. would be necessary at strategic points including the outfall.

2.1.2 Hydraulics - Unless more stringent criteria should apply because of other jurisdictional standards or unusual risks, the minimum District standards are as follows:

2.1.2.1 Maximum water depth as determined by routing a three day precipitation (distributed according to the Applicant's Handbook Volume II ~~Basis of Review~~, Section 5.7.2 ~~4.2~~) through the inflow and outflow structures with rainfall on the reservoir. Three day precipitation amounts may vary between thirty six and fifty six inches depending on site specific conditions and risk management considerations. District staff will advise on request.

2.1.2.2 Design water depth - As determined by routing the project allowable discharge design event through the inflow and outflow structures with rainfall on the reservoir. The three day 25 year event should typically be used as a minimum.

2.1.2.3 Minimum freeboard above maximum water depth - Three feet minimum or that required to prevent overtopping or failure due to hurricane force winds as derived from the South Florida Building Code.

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2.1.2.4 Discharge structure – Applicant's Handbook Volume II ~~Basis of Review~~ allowable discharge for reservoir at maximum water depth with 100 year tailwater flood elevation, or Applicant's Handbook ~~Basis of Review~~ allowable discharge for reservoir at design water depth and non-limiting tailwater, unless more accurate site specific tailwater elevations are applicable and substantiated by the applicant.

2.1.2.5 Return overflow - Impoundments must contain an outflow discharge structure which returns water to the area from which inflow occurs. Therefore a separate structure will be necessary for pump filled impoundments to allow return flow under the conditions of maximum or design water depths in the reservoir with pumps continuing to operate. For gravity filled impoundments this structure will actually be the inflow structure since reservoir and project stages will be the same.

2.1.2.6 Emergency discharge gates - Discharge structures should include emergency gates which can only be opened with District permission. Return overflow structures must include emergency gates to be operated at the discretion of the permittee or at the direction of the District.

2.1.2.7 Pumps-The pumps used to fill impoundment serving multiple owners, when allowed, should be multiple pumps of the same sizes to allow interchange of parts. Electric pumps should have standby fuel operated power systems.

2.1.2.8 Seepage collection systems - A safety factor of three shall be utilized for hydraulic conveyance design purposes.

2.1.3~~.~~4 Floodplain encroachment and setbacks - Impoundments shall not be located within floodplains or shall otherwise provide compensation and setbacks as provided in Section 3.6 ~~3.2.1.5~~ in the Applicant's Handbook Volume II ~~Basis of Review~~. Impoundments located in flat areas of diffused flow shall have the toe of dikes set back at least fifty feet from property lines to allow historic sheet flow to move around the impoundments. Greater dimensions or swale construction may be required if steep slopes, very large contributing areas, etc. would cause that dimension to be inadequate. Smaller dimensions may be allowed if the applicant can demonstrate smaller dimensions will suffice.

2.1.4 Environmental and water quality - The provisions of the Applicant's Handbook Volume I and Volume II ~~Basis of Review~~ apply. Since many impoundments are utilized for wetland management and/or mitigation, it may be necessary to set control elevations and emergency gate bottoms above natural ground levels in order to prevent wetland overdrainage.

2.1.5 Emergency repair material - Appropriate amounts of type, quantity and location of emergency repair materials shall be included in design plans.

2.2 Minor impoundments

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2.2.1 Structural stability - The same general comments apply as for Major impoundments with specific guidelines as follows ~~follow~~:

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2.2.1.1 Dikes - Designs shall be in accordance with commonly accepted engineering principles and State laws. Dikes external to the permittee's property shall meet the dimensional and access criteria for Major impoundments to the degree necessary to meet the intent of Section 1.2.1. Internal dikes may be of lesser standards, but sideslopes should be no steeper than 2:1 (horizontal to vertical) and top widths no less than five feet.

2.2.1.2 Structures - Discharge and other structures should be as for Major impoundments.

2.2.2 Hydraulics - The same general comments apply as for Major impoundments with specific standards as follows ~~follow~~:

2.2.2.1 Maximum water depth - The maximum water depth equals the design water depth as described for Major impoundments.

2.2.2.2 Minimum freeboard above maximum water depth - Equal to the maximum water depth dimensions but not less than two feet, no more than three feet.

2.2.2.3 Discharge structure – Applicant's Handbook Volume II ~~Basis of Review~~ allowable discharge for reservoirs at design water depth and non-limiting tailwater, unless more accurate site specific tailwater elevations are applicable and substantiated by the applicant.

2.2.2.4 Return overflow - Same as for Major impoundments.

2.2.2.5 Emergency discharge gates - Same as for Major impoundments except installation is optional.

2.2.2.6 Pumps - Same as for Major impoundments.

2.2.2.7 Seepage collection systems - Optional.

2.2.3 Floodplain encroachment and setbacks - Same as for Major impoundments.

2.2.4 Environmental and water quality - Same as for Major impoundments.

2.2.5 Emergency repair material - Optional.

3.0 CONSTRUCTION

Construction certification is a requirement of all permits for both Major and Minor impoundments, and it is therefore the responsibility of the registered professional ~~certifying engineer~~ to satisfy himself/herself and the State laws as to construction

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compliance with design. Changes to permitted design would require the need for As-Built plans to satisfy certification. Major changes, including changes to permit authorization or special or limiting conditions would require a permit modification prior to implementation. The District expects continual construction observation to be the minimum requirement necessary to evidence ability to perform certification on Major impoundments. Certification must indicate that construction has been satisfactorily completed so that routine operation and maintenance may commence.

4.0 OPERATION AND MAINTENANCE

4.1 Reporting

Inspection of impoundment conditions, repairs, etc. will be a continuing process required by permit special condition. Inspection reports are to be retained by the permittee and copies made available to the District upon request. It is the basic responsibility of the permittee to initiate interim reporting and/or more detailed reporting to the District as conditions change, emergencies or problems arise, etc. It is expected that Major impoundments will be reported in accordance with the operation and maintenance manual and emergency response and evacuation plan adopted at the time of permit issuance, with updates as necessary.

4.2 Primary subjects of interest

4.2.1 Major impoundments

4.2.1.l Dikes and seepage collection system

a. Vegetation conditions
b. Erosion
c. Evidence of boils, piping, unusual seepage
d. Slope stability, surface cracking
e. Settlement
f. Travelway conditions
9. High and low water marks
h. Presence of aquatic vegetation in supposed dry areas
i. Monitoring system condition and monitoring data
j. Adequacy and condition of emergency repair material
k. Short and long term repair and modification recommendations

4.2.1.2 Structures and pumps

a. Materials conditions
b. Operational conditions
c. Evidence of vandalism
d. Settlement and erosion

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e. Freedom from trash problems
f. Short and long term repair and modification recommendations

4.2.1.3 Impoundment area

a. Vegetation changes
b. Evidence of encroachment and misuse of land

4.2.1.4 Emergency response plan

a. Land use changes in area of influence
b. Topographic changes causing change in area of influence
c. Changes in participants, addresses, phone numbers, etc. involved in emergency response plan
d. Evidence of contact update with involved emergency management officials

4.2.2 Minor impoundments

4.2.2.1 Dikes

a. Vegetation conditions
b. Erosion, settlement, cracking, stability
c. Short term repair and modification recommendations

4.2.2.2 Structures and pumps

a. Structural conditions
b. Operational conditions
c. Short term repair and modification recommendations

4.2.2.3 Impoundment area

a. Vegetation changes
b. Evidence of encroachment and misuse of land

4.3 Typical special condition

4.3.1 Upon completion of construction, and on an annual basis (in March of each year), the permittee shall have an inspection performed to assess the structural adequacy of all above-ground dikes, control structures, levees and berms behind which water is to be contained and where failure could impact off-site areas. A registered professional ~~engineer registered in the State of Florida~~ shall perform each inspection and prepare each report. These reports shall be signed and sealed by the registered

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professional ~~engineer~~ performing the inspection, kept on file by the permittee and made available to the South Florida Water Management District (SFWMD) personnel upon request. If deficiencies are found that will affect the performance of the impoundment, a report which is signed and sealed by the registered professonal ~~engineer~~ performing the inspection shall be submitted to the District which includes, but is not limited to, the proposed technique and schedule for repair of any deficiencies noted.

5.0 REFERENCES

Agencies with impoundment experience and publications:

a. U.S. Army Corps of Engineers
b. U.S. Department of Interior, Bureau of Reclamation
c. U S Department of Agriculture, Soil Conservation Service

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Appendix C: Isohyetal Maps from SFWMD Technical Memorandum, *Frequency Analysis of One and Three Day Rainfall Maxima for central and southern Florida*, Paul Trimble, October 1990.

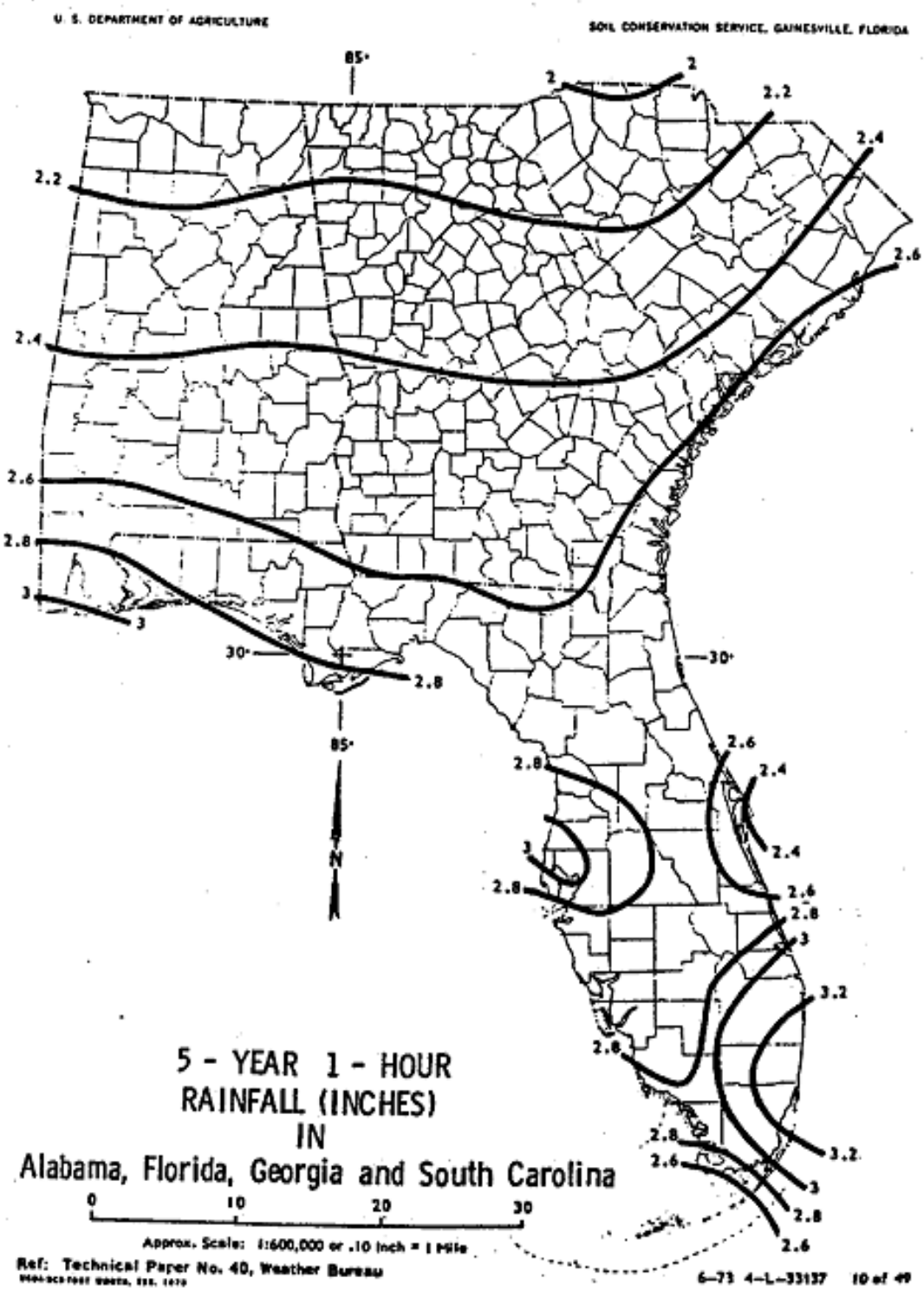


Figure C-1

Attachment: ph_reg_102_Exhibit B_sd (1272 : Statewide Environmental Resource Permitting)

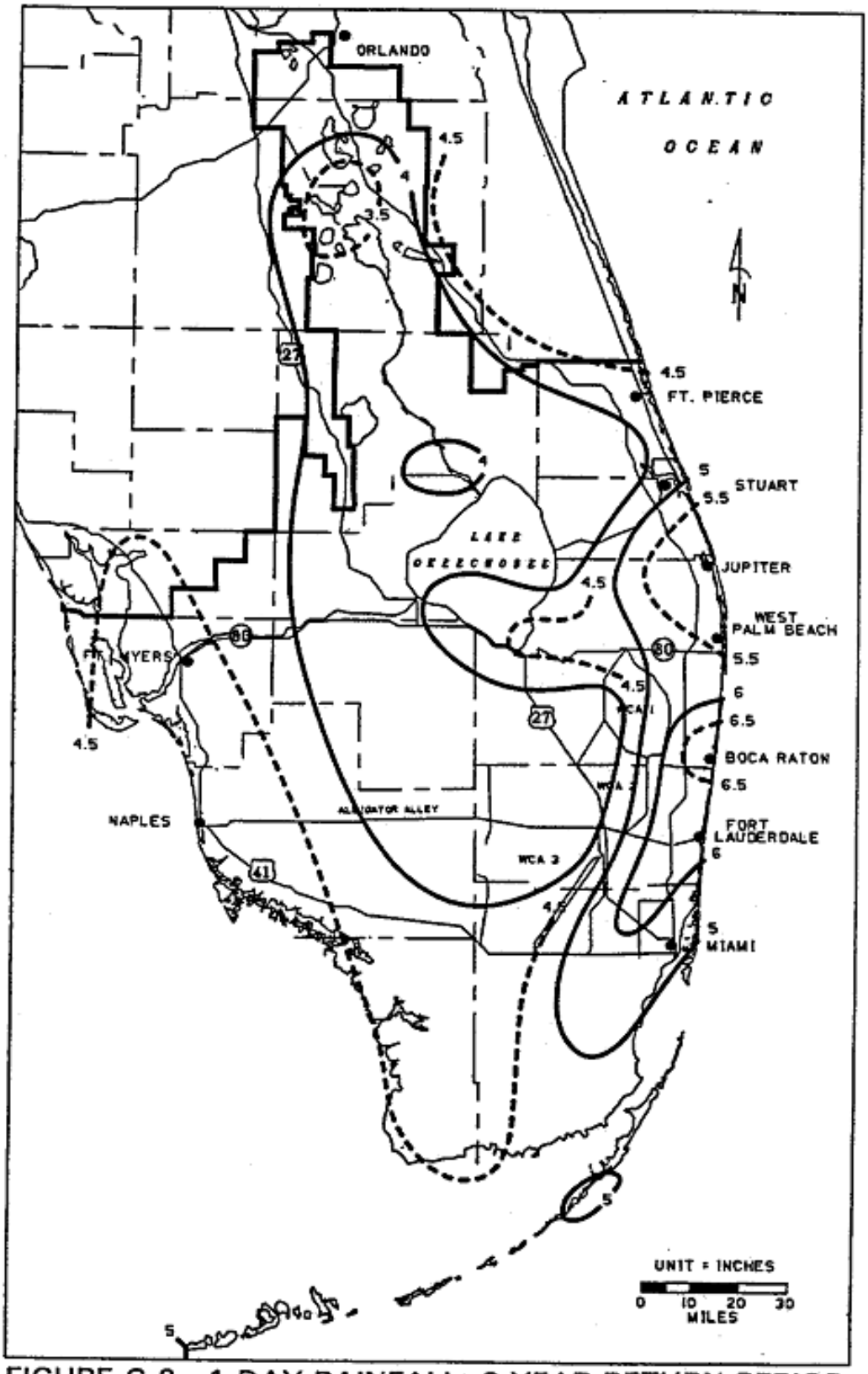


FIGURE C-2. 1-DAY RAINFALL: 3-YEAR RETURN PERIOD

Attachment: ph_reg_102_Exhibit B_sd (1272 : Statewide Environmental Resource Permitting)

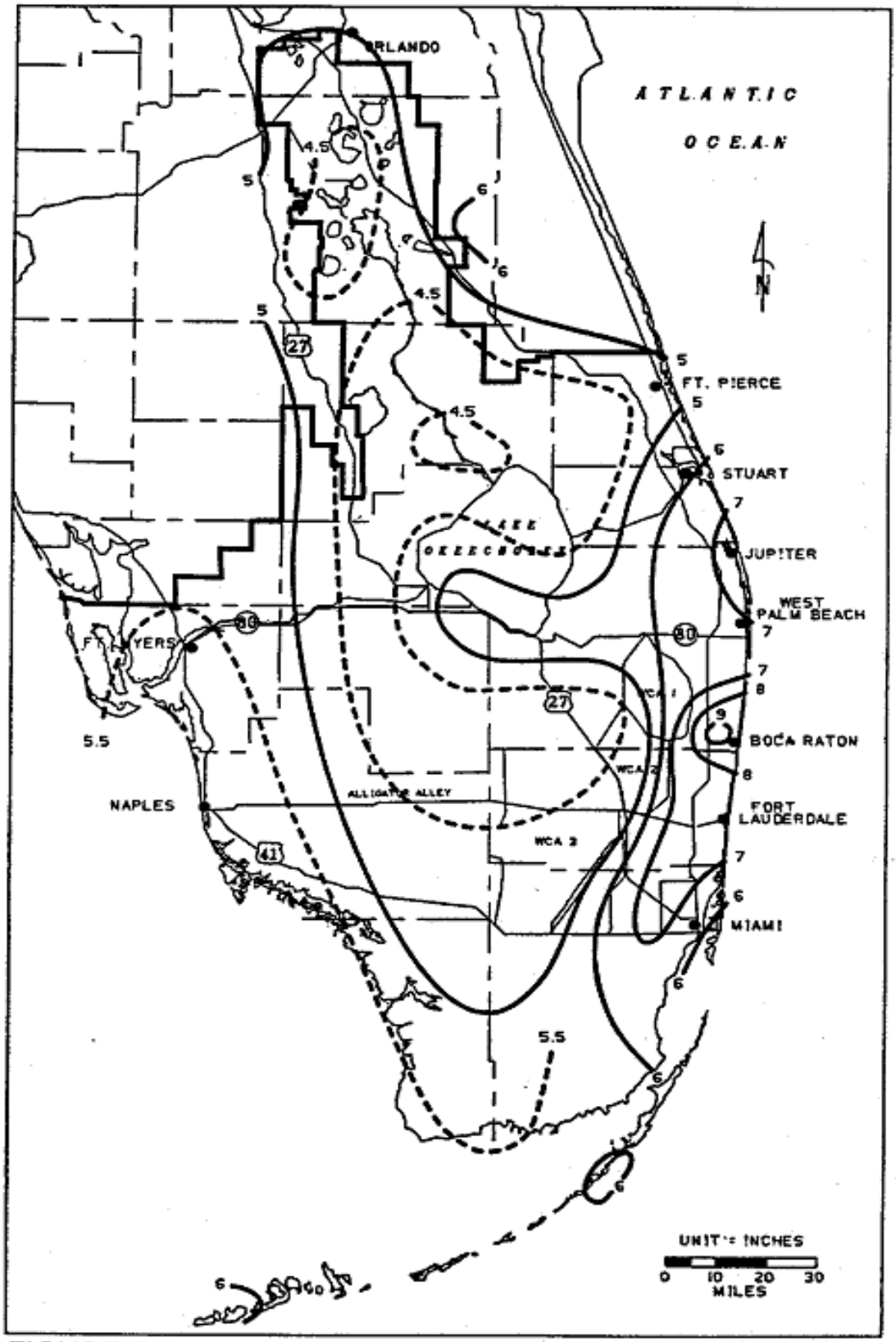


FIGURE C-3. 1-DAY RAINFALL: 5-YEAR RETURN PERIOD

Attachment: ph_reg_102_Exhibit B_sd (1272 : Statewide Environmental Resource Permitting)

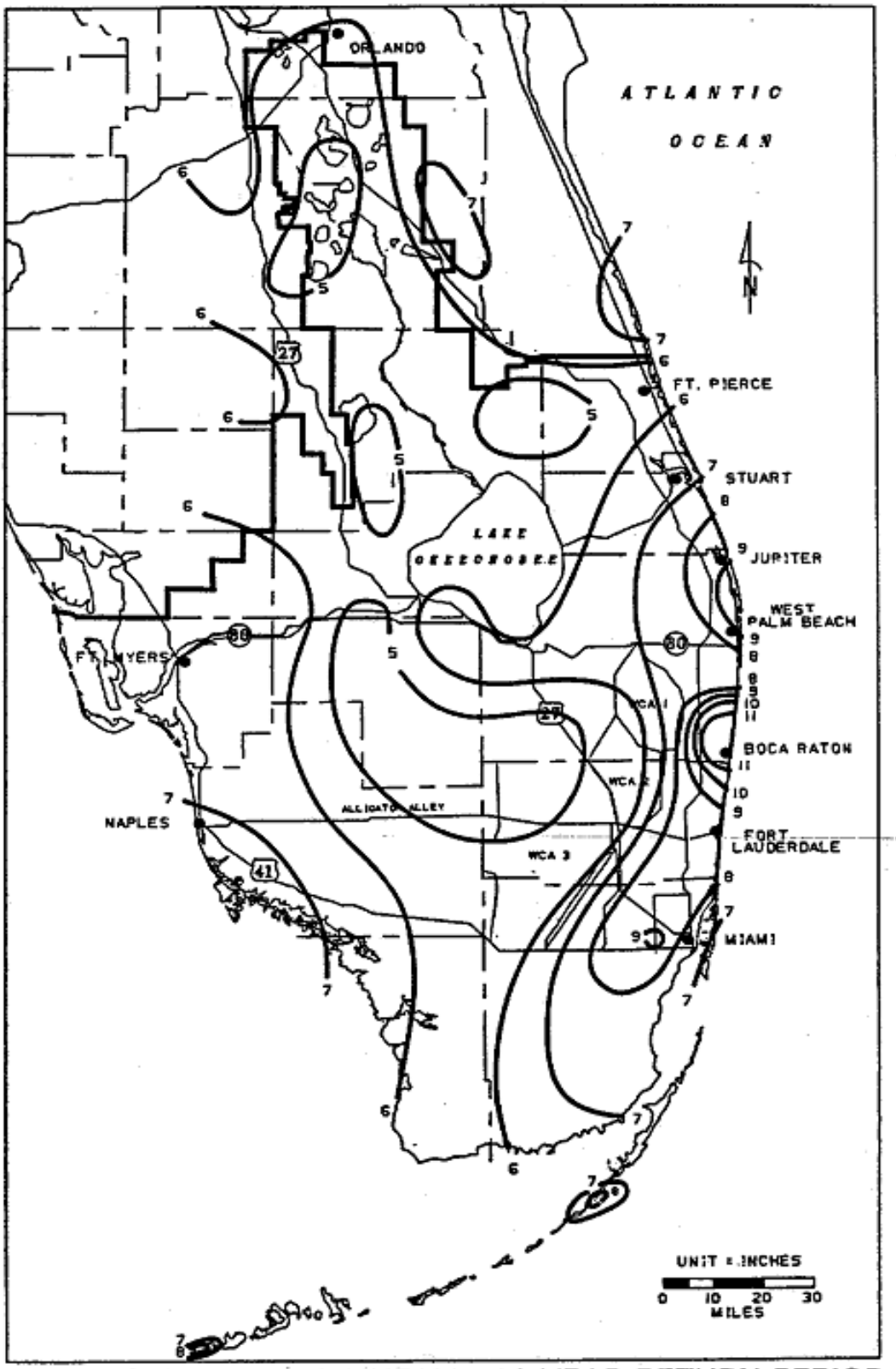


FIGURE C-4. 1-DAY RAINFALL: 10-YEAR RETURN PERIOD

Attachment: ph_reg_102_Exhibit B_sd (1272 : Statewide Environmental Resource Permitting)

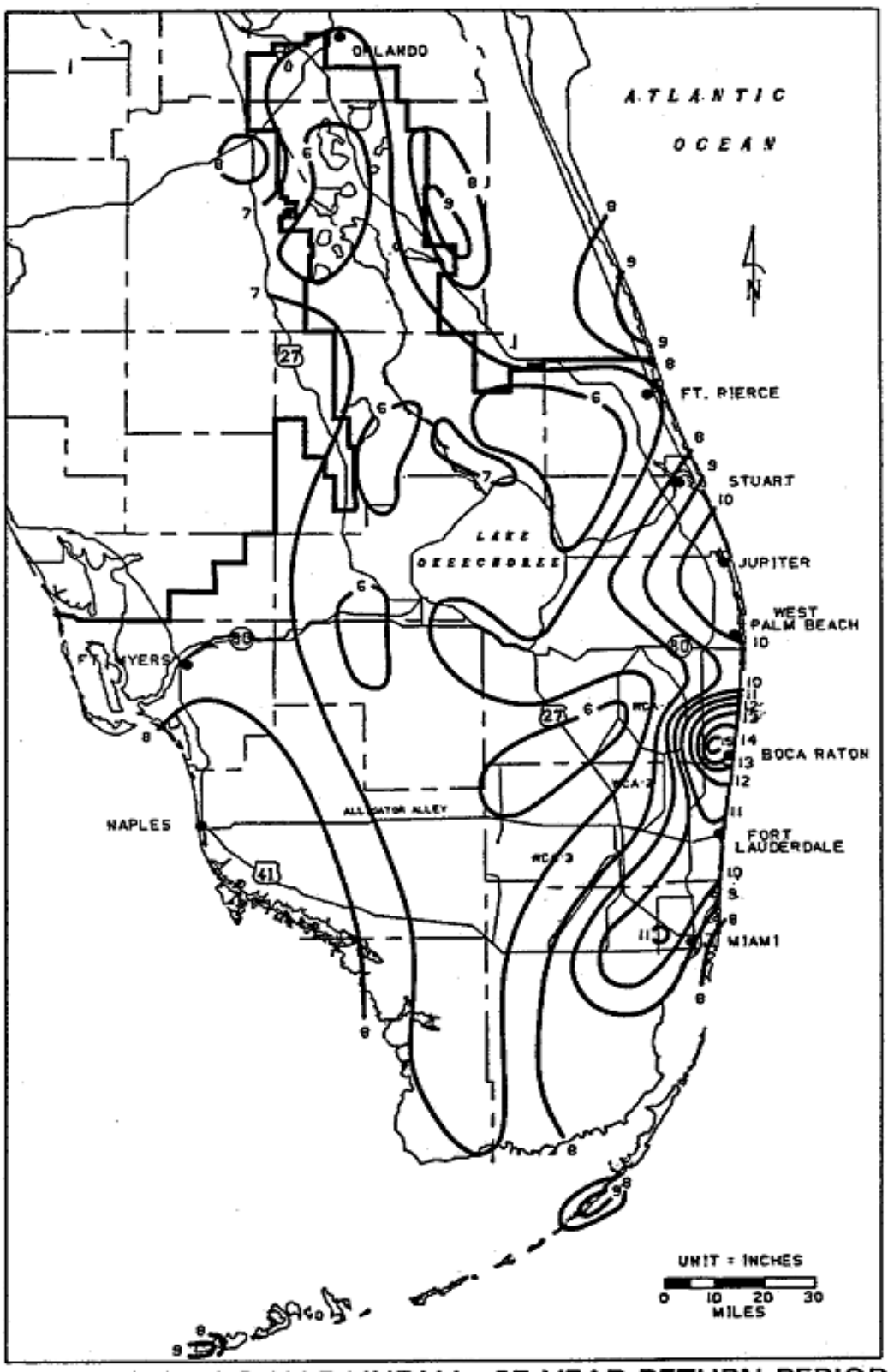


FIGURE C-5. 1-DAY RAINFALL: 25-YEAR RETURN PERIOD

Attachment: ph_reg_102_Exhibit B_sd (1272 : Statewide Environmental Resource Permitting)

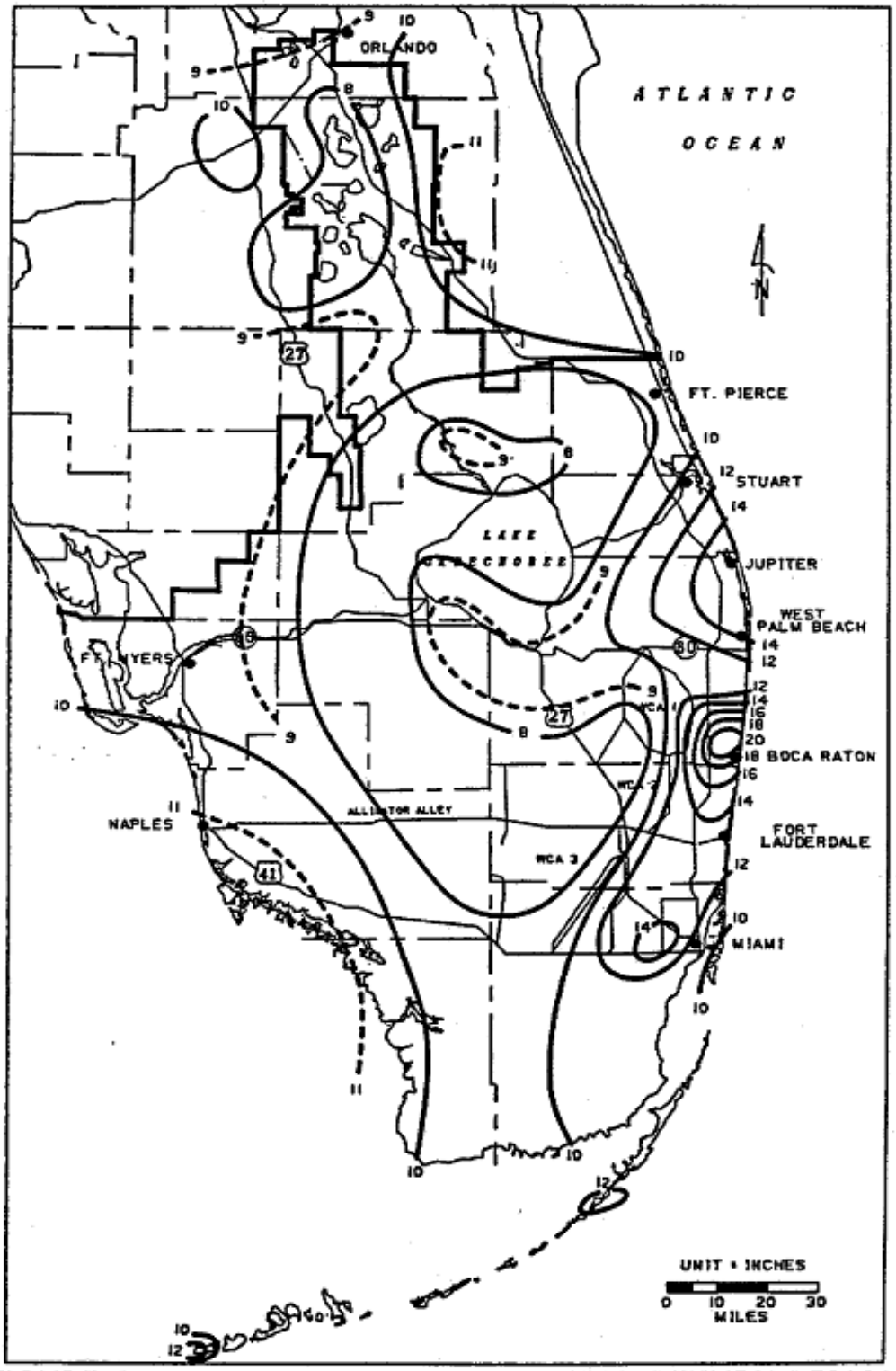


FIGURE C-6. 1-DAY RAINFALL: 100-YEAR RETURN PERIOD

Attachment: ph_reg_102_Exhibit B_sd (1272 : Statewide Environmental Resource Permitting)

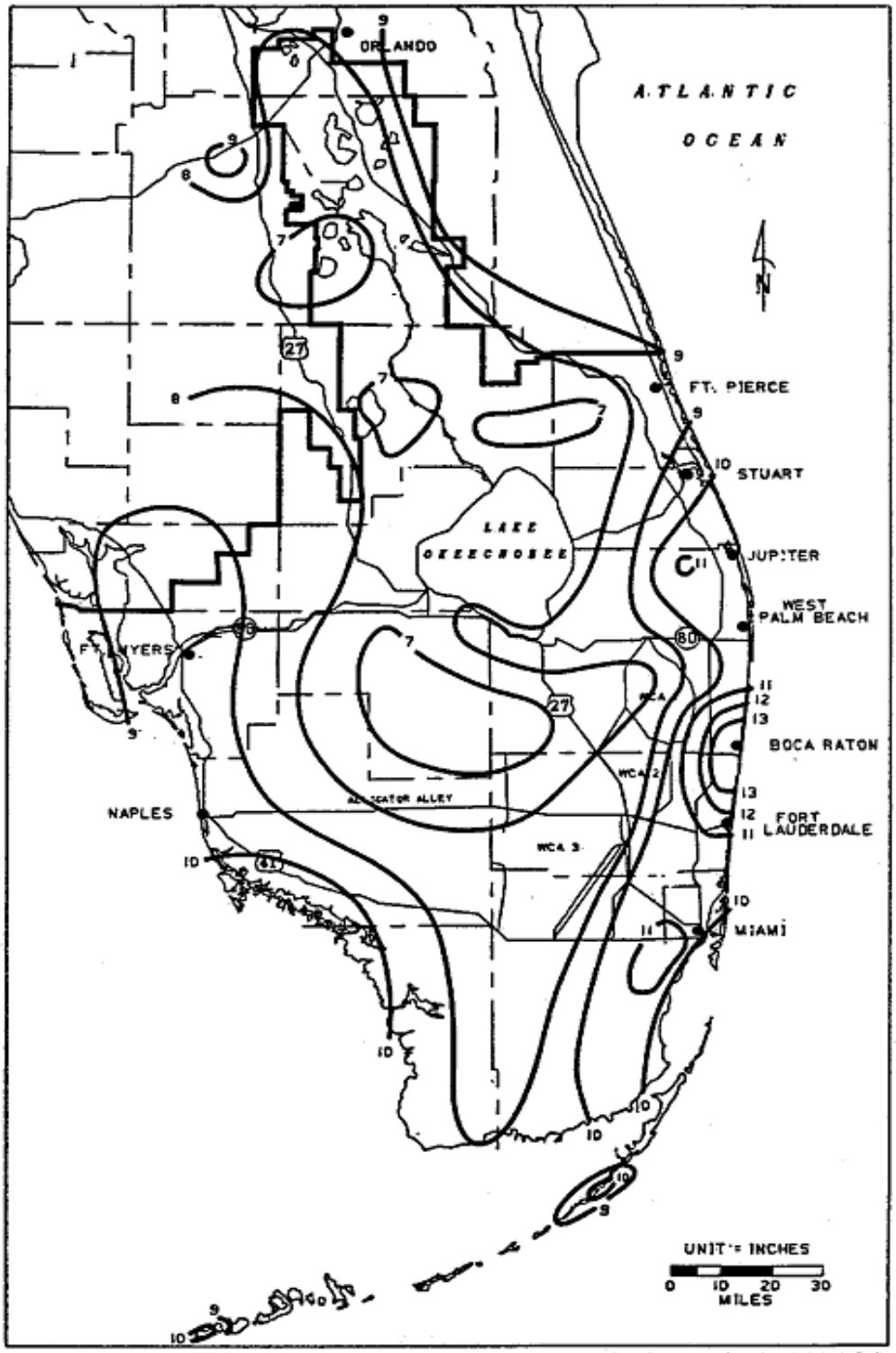


FIGURE C-7. 3-DAY RAINFALL: 10-YEAR RETURN PERIOD

Attachment: ph_reg_102_Exhibit B_sd (1272 : Statewide Environmental Resource Permitting)

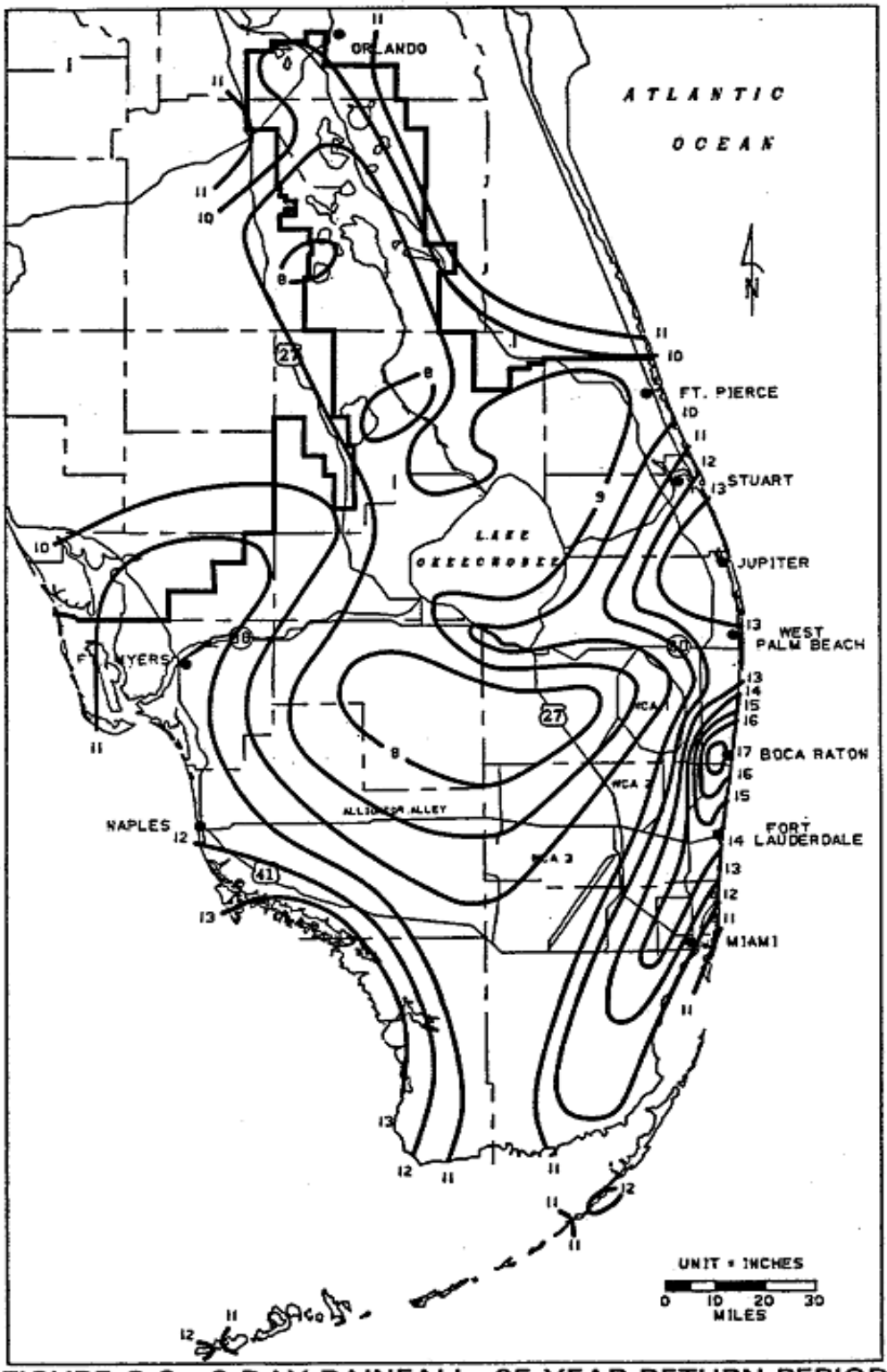


FIGURE C-8. 3-DAY RAINFALL: 25-YEAR RETURN PERIOD

Attachment: ph_reg_102_Exhibit B_sd (1272 : Statewide Environmental Resource Permitting)

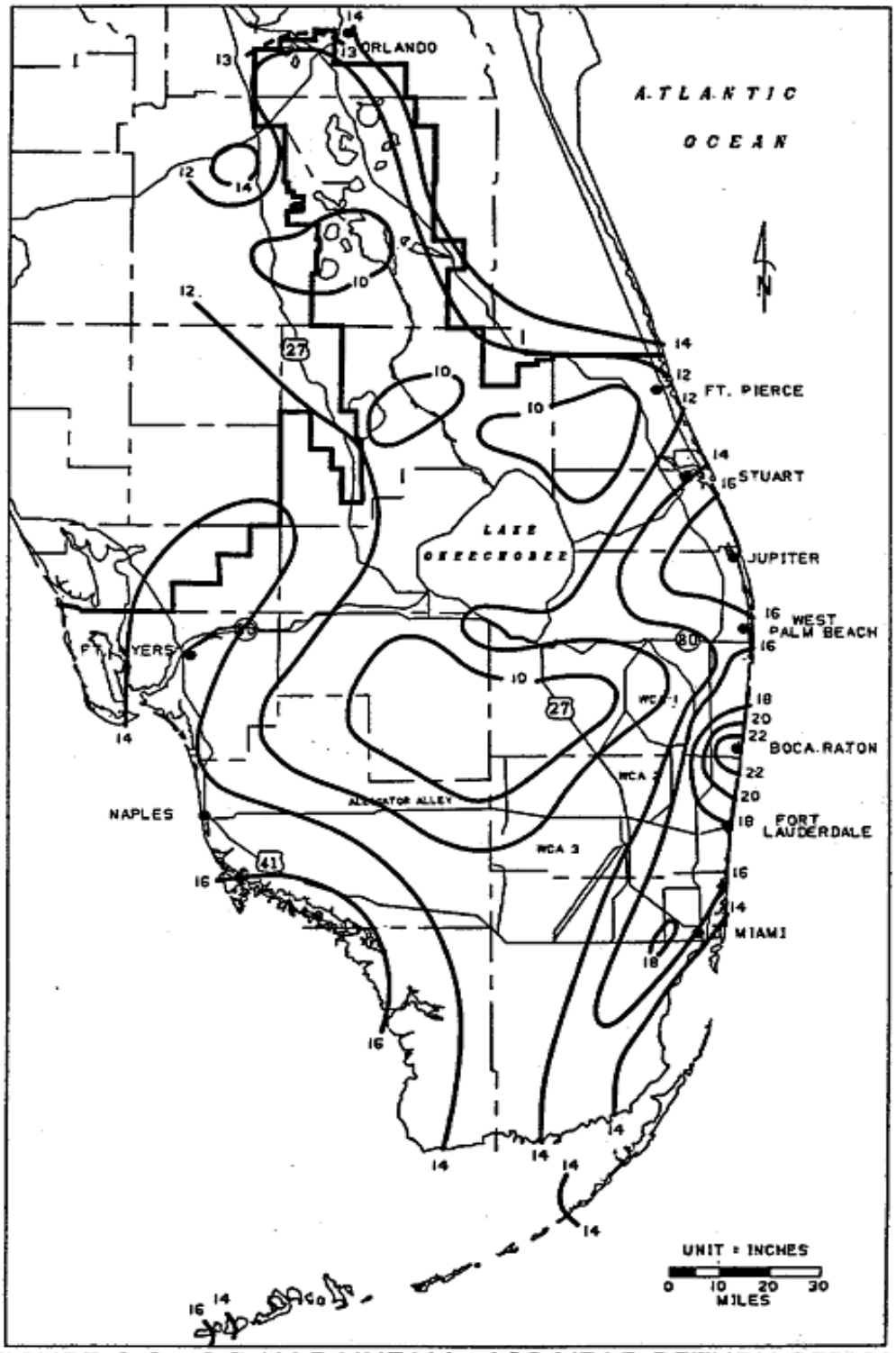
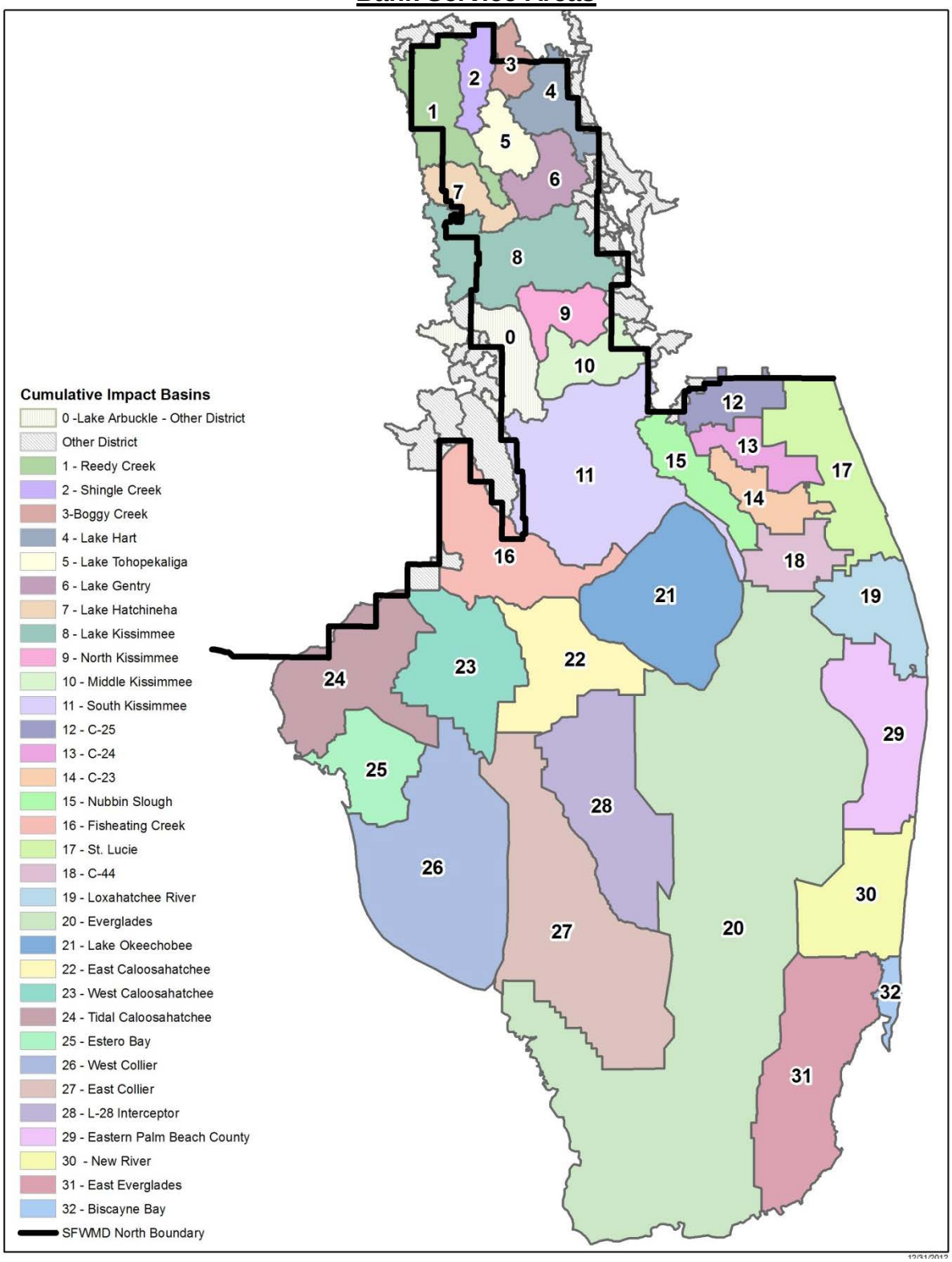


FIGURE C-9. 3-DAY RAINFALL: 100-YEAR RETURN PERIOD

Attachment: ph_reg_102_Exhibit B_sd (1272 : Statewide Environmental Resource Permitting)

APPENDIX D- SFWMD Basins for Cumulative Impact Assessments & Mitigation Bank Service Areas



Attachment: ph_reg_102_Exhibit B_sd (1272 : Statewide Environmental Resource Permitting)

40E-6.011. Policy and Purpose.

(1) This chapter governs the use of or connection to works or lands of the District. Conditions and criteria are established to ensure that uses are compatible with the construction, operation, and maintenance of such works or lands.

(2) Due to the critical importance of works and lands of the District in providing flood protection and other benefits, it is considered essential that the District retain complete dominion and control over the use of such works or lands, including those subject to right of way occupancy permits. The District acts in a proprietary capacity in acquiring lands or interests therein for utilization as works of the District. These rules are based upon proprietary concepts of property law. A "permit" to utilize works or lands of the District is a contract between the District and the "permittee," whereby the permittee obtains a license which is revocable at will, except as otherwise provided herein. All risk of loss regarding expenditures in furtherance of the permitted use is borne by the permittee. The District retains complete discretion as to the manner, if any, in which works or lands of the District shall be utilized, and nothing in these rules is intended to limit that discretion.

(3) An exception to subsection (2), above, is made for governmental entities and utilities, which may have their consent to utilize District works or lands revoked only for cause, pursuant to the criteria set forth in this chapter.

(4) The District has determined that an unencumbered 40 foot wide strip of right of way, measured from the top of bank landward, is required in order for the District to perform the required routine and emergency operations and maintenance activities necessary to insure flood protection to the entire community. In this 40 foot right of way, subject only to limited exceptions provided in this rule, the District shall not authorize any aboveground facilities or other encroachments.

(5) The requirement for the unencumbered 40 foot right of way shall be applicable regardless of the District's quality of title to the right of way and regardless of the width of the overbank right of way.

(6) In the past, the District has authorized certain above-ground facilities and uses on its rights of way within a 40 foot wide area adjacent to the top of bank, as set forth in subsection (4), above. However, over time and with experience gained in disaster preparation, operation and recovery, the District has determined that these previously authorized above ground facilities and uses are now inconsistent with the current and future operation and maintenance needs of the District. These facilities and uses have also been determined by the District to increase the operation and maintenance costs (for both routine and emergency operation and maintenance activities) and pose a significant additional physical burden on District staff. Subject to those uses specifically allowed in the C~~c~~riteria Manual for Use or Occupancy of the Works or Lands of the District (Criteria Manual)~~(Basis of Review)~~, no future authorizations by the District shall allow above-~~-~~ground facilities or uses within that 40 foot wide area adjacent to the top of bank within the right of way, and all previous authorizations for facilities and uses shall be expressly limited to minimize their adverse impact on District operations and maintenance. Specifically, such authorizations shall not be modified or transferred, and shall be subject to the revocation provisions set forth herein as determined necessary by the District in order to meet its current and future operation and maintenance responsibilities to provide adequate flood protection to the community.

(7) In order to effectively and efficiently evaluate proposed installations of above-~~-~~ground facilities and uses, the District has segmented the canal and rights of way into five (5) operational zones shown on the diagram below:

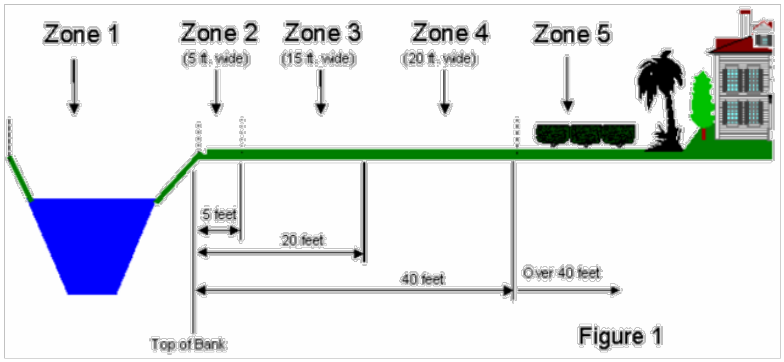


Figure 1

Attachment: 2013-04-26 Chapter 40E-6 FAC (1313 : ROW - Rule Adoption)

The District's rights of way vary in width, and may be either less than forty feet or more than forty feet in width. Accordingly, in those cases when the right of way is less than forty feet, only those zones depicted above would be applicable to the actual width of the right of way.

The specific above ground facilities and uses which are consistent with the District's operation and maintenance needs, and which will generally be authorized are set forth in Rule~~s 40E-6.121 and~~ 40E-6.221, F.A.C. Those facilities and uses not specifically identified as being consistent with the District's operation and maintenance needs for the respective zones have been determined by the District to be inconsistent with District operation and maintenance needs and no District authorization shall be granted.

(8) Due to the varying widths and physical limitations of the rights of way obtained by the District for the canals of the Big Cypress Basin, maintenance of the Basin canals is currently performed with different equipment than is utilized throughout the remainder of the District. Based on the differing maintenance needs of the Big Cypress Basin, application of the five operational zones, as set forth in subsection (7), above, will be reviewed on a case by case basis taking into account the width of overbank right of way, the accessibility of the right of way to land-based maintenance equipment and any site specific conditions that would impact the Basin's ability to operate and maintain the canal which is the subject of a particular application.

(9) The District reserves sole authority to make a determination that portions of the District's rights of way are inaccessible for routine maintenance activities due to a variety of physical limitations. While a determination that a certain segment of right of way is presently unusable for routine land-based maintenance activities and relaxation of the restrictions in zones 2, 3, 4, and 5 may be allowed, such determination shall be at the sole discretion of the District and does not obviate the need for individuals with proposed or existing facilities within these areas to obtain permits from the District. Further, the District reserves the right to enter these areas to conduct emergency operations or to require the removal of any encroachments that are inconsistent with these rules at such time as maintenance access is perfected through the area.

(10) The District has further determined that certain facilities and uses meeting specific minimum criteria for various right of way zones shall more efficiently be granted authorization with a limited review by District staff, since these specific facilities and uses do not adversely impact the District's ability to operate and maintain the District's right of way and works of the District. Such authorizations shall be administered by the provisions of Rules 40E-6.201~~101~~ and 40E-6.221~~121~~, F.A.C., as a notice general permit. The District will incur less expense in the review of notice general permit applications, and, therefore the application processing fee associated with such facilities and uses shall reflect accordingly, as set forth herein. If multiple uses are being requested and any of those uses require a standard permit, all authorizations shall be requested under the standard permit application and a notice general permit will not be required.

(11) In managing its canal and levee system the District must, from time to time, change its criteria and permit requirements based on regional and site specific conditions. Applicants are cautioned that the information provided by District staff is based on the best available information at the time the information is conveyed, but is subject to change. This is particularly true when applicants delay months or years in submitting an application for permit. Therefore the rules, criteria and requirements in effect at the time a formal application is received for review will be applied to the permit application.

Rulemaking~~Specific~~ Authority 373.113 FS. Law Implemented 373.016, 373.085, 373.086, 373.118, 373.129, 373.1395 FS. History--New 9-3-81, Formerly 16K-5.01(1), Amended 12-29-86, 9-15-99, 7-12-06, _____.

40E-6.021. Definitions.

(1) The term "above ground facilities" when used in these rules is intended to mean any and all physical improvements or uses, whether man-made or natural (e.g., vegetation), that are extended above the existing surface of the ground.

(2) The term "change of ownership" when used in these rules is intended to mean the sale, purchase, or transfer of beneficial ownership of property adjacent to the District's right of way relative to a right of way occupancy permit; or in the case of utilities, bridges, or other such public facilities, the sale, purchase, or transfer of responsibility.

(3) The term "easement" when used in these rules is intended to mean the District's legal interest in the land for a specific limited use, such as access, construction, operation and maintenance of a canal or levee, access, stock piling of spoil material, or flowage of the land of another.

(4) The term "fee" ownership when used in these rules is intended to mean absolute and unconditional ownership by the District.

(5) The term "financial assurances" when used in these rules is intended to mean a cash bond to be held by the District in a non-interest bearing account, a performance bond issued by a licensed bonding company, a letter of credit issued by a financial institution authorized to do business in the State of Florida, or other such instrument approved by the District.

(6) The term "marina" when used in these rules is intended to mean a docking facility for four (4) or more watercraft.

(7) The term "modification" when used in these rules is intended to mean the addition or deletion of any facilities or uses not specifically authorized by the original permit.

(8) The term "notice general permit" when used in these rules is intended to mean a revocable license to occupy the works or lands of the District for specific types of ~~proposed~~ uses, with limited review by District staff, as set forth herein, and not requiring Governing Board approval.

(9) The term "owner" when used in these rules is intended to mean the individual or entity legally responsible for the ownership and control of the ~~proposed~~ facility or authorized use.

(10) The term "permit transfer" when used in these rules is intended to mean the changing of responsibility for the permit authorization from one person or entity to another.

(11) The term “public works project” when used in these rules is intended to mean projects such as bridges, roads, utilities, and parks.

(12~~11~~) The term "right of way" when used in these rules is intended to mean those lands acquired by the District in fee, easement, or other type of grant, for the purpose of construction, operation~~s~~ and maintenance of works of the District~~'s~~ including, but not limited to, canals, ~~and~~ levees~~ system~~, water control structures, spoil areas, Stormwater Treatment Areas (STAs), and access roads~~and other easements~~.

(13~~12~~) The term "right of way occupancy permit" when used in these rules is intended to mean a revocable license to occupy the works or lands of the District, either by a notice general permit or a standard permit.

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(14) The term “safety features” when used in these rules is intended to mean those appurtenances/facilities associated with public work projects such as signage, guardrails, bollards, signalization, handrails and lighting/security poles.

(15~~13~~) The term "STA" when used in these rules is intended to mean the District's Everglades Nutrient Removal Project ("ENR"), as well as those areas currently, or in the future, designated by the District as Stormwater Treatment Areas.

(16) The term “staging area” when used in these rules is intended to mean that portion of land, 100’ in length, for the entire width of the District’s right of way, located on the upstream and downstream sides of all bridge and pile-supported utility crossings.

(17~~14~~) The term "standard permit" when used in these rules is intended to mean a revocable license to occupy the works or lands of the District for all uses not covered by a notice general permit, with a full review by District staff, as set forth herein, and requiring Governing Board approval.

(18~~15~~) The term "top of bank" when used in these rules is intended to mean the point at which the flat or nearly level ground surface transitions down to the channel along the side slope of the canal bank.

(19~~16~~) The term "tree" when used in these rules is intended to mean not only the trunk of the tree, but the farthest part of the canopy of the tree at maturity as well.

(20~~17~~) The term "utility" when used herein means ~~companies~~ entities ~~actually~~ providing ~~essential~~ water, electric, telephone, fiber optic/cable, sewer, or natural gas services. ~~All other services shall be considered non-essential.~~

(21~~18~~) The term "violator" when used in these rules is intended to mean any persons or entities acting contrary to the provisions of Chapter 373, F.S., these rules, as well as the provisions of any permit issued pursuant to these rules.

(22~~19~~) The term "w~~W~~orks of the District" when used in these rules is intended to mean the canals, levees, structures, lands, water bodies, and other associated facilities which have been adopted as such by the District's Governing Board.

(23~~20~~) The term "Zone 1" when used in these rules is intended to mean the canal channel from the top of bank to the opposite top of bank, as depicted in ~~Figure 1~~Rule 40E-6.011(7), F.A.C.

(24~~21~~) The term "Zone 2" when used in these rules is intended to mean the point on the right of way from the top of bank to a point five (5) feet landward, as depicted in Rule 40E-6.011(7), F.A.C ~~Figure 1~~.

(25~~22~~) The term "Zone 3" when used in these rules is intended to mean the point on the right of way from a point five (5) feet landward from top of bank to a point twenty (20) feet landward, as depicted in Rule 40E-6.011(7), F.A.C ~~Figure 1~~.

(26~~23~~) The term "Zone 4" when used in these rules is intended to mean the point on the right of way from a point twenty (20) feet landward from top of bank to a point forty (40) feet landward, as depicted in Rule 40E-6.011(7), F.A.C ~~Figure 1~~.

(27~~24~~) The term "Zone 5" when used in these rules is intended to mean any right of way located farther than forty (40) feet from the top of bank, as depicted in Rule 40E-6.011(7), F.A.C ~~Figure 1~~.

Attachment: 2013-04-26 Chapter 40E-6 FAC (1313 : ROW - Rule Adoption)

Rulemaking ~~Specific~~ Authority 373.044, 373.113 FS. Law Implemented 373.085, 373.086 FS. History--New 9-15-99, Amended 7-12-06,_____.

40E-6.031. Implementation.
(1) The effective date for the program established in this chapter is _____ ~~September15, 1999~~.

(2) All permits issued prior to the effective date of these rules shall remain in effect, except as provided herein.

(3) All applications, and permit application processing fees, for permits received by the District prior to the effective date of these rules shall be processed using the criteria set forth in ~~Volume V,~~ Criteria Manual for Use or Occupancy of the Works or Lands of the District -- Permit Information Manual, adopted ~~December 24, 1991~~_____.

(4) All applications, and permit application processing fees, received by the District on or after the effective date of these rules shall be subject to the provisions of these rules and the criteria adopted pursuant to these rules as set forth in Rule 40E-6.091, F.A.C.

Rulemaking ~~Specific~~ Authority 373.044, 373.113 FS. Law Implemented 373.085, 373.086 FS. History--New 9-3-81, Amended 12-29-86, 9-15-99,_____.

40E-6.041. Consent Required.
(1) Unless expressly exempt by law or District rule, a right of way occupancy permit, either a notice general permit or a standard permit, must be obtained prior to connecting with, placing structures in or across, discharging into or making use of the works of the District and any additional lands or real property interest owned by the District used in conjunction with such works, including the Stormwater Treatment Areas (STAs)~~Works or lands of the District subject to this requirement appear in the document listed in Rule 40E-6.091, F.A.C~~.

(2) All other use and occupancy of District works or lands must be consistent with the purposes and objectives of Ch. 373, F.S., and Title 40E, F.A.C.

(3) These rules do not apply to:

(i) Those portions of "management areas" described ~~property managed by the District~~ pursuant to Chapter 40E-7, Part V, F.A.C., not contained within Works of the District, or

(ii) Property managed by the District pursuant to the District's Real Estate or leasing ~~P~~policy~~y~~ies, except as otherwise limited by Rule40E-6.221(8), F.A.C.

(4) These rules do not apply to the Seminole Tribe of Florida at such time as there exists a District approved agreement specifically addressing the use and management of District rights of way between the District and the Seminole Tribe of Florida.

(5) Except when works or lands of the District have been affirmatively opened to public vehicular use, a right of way occupancy permit must be obtained prior to traveling on or across such works or lands.

(6) A conceptual approval for the use of works of the District may be obtained by processing a right of way occupancy permit application in conjunction with the request for a letter of conceptual approval only if the letter of conceptual approval is requested pursuant to section 380.06(9)(b), F.S.

Attachment: 2013-04-26 Chapter 40E-6 FAC (1313 : ROW - Rule Adoption)

Rulemaking ~~Specific~~ Authority 373.044, 373.113 FS. Law Implemented 373.085, 373.086, 380.06(9)(b), 373.118 FS. History--New 9-3-81, Formerly 16K-5.01(1), 16K-5.10, Amended 7-1-86, 12-29-86, 12-24-91, 9-15-99,_____.

40E-6.051. Exemptions.

(1) The following uses are exempt from permitting under this chapter where such facilities and uses comply with the criteria contained in the document listed in subsection 40E-6.091(1), F.A.C.:

(a) The planting or maintenance of native or drought and insect resistant turf grasses;

(b) Drain lines (pool, roof, air-conditioning);

(c) Low lying groundcover in certain zones;

(d) Irrigation lines, flush or pop-up sprinklers, draft lines; and

(e) Not-for-profit, organized boat races, regattas and similar activities.

(2) An exemption from these rules shall not relieve any person or entity from compliance with other District permit requirements and any applicable permit requirements of federal, state and local government.

(3) The District is not responsible for the repair of or claims of damage to any facilities and uses which may incur damage resulting from the District's utilization of its rights of way or use by third parties. Improvements placed within the right of way are done so at the sole risk of the owner.

(4) The District is not responsible for any personal injury or property damage which may directly or indirectly result from the use of water from the District's canal or any activities which may include use or contact with water from the District's canal, since the District periodically sprays its canals for aquatic weed control purposes and uses substances which may be harmful to human health or plant life.

Rulemaking~~Specific~~ Authority 373.044, 373.113 FS. Law Implemented 373.085, 373.086 FS. History--New 12-24-91, Amended 9-15-99, 7-12-06.

40E-6.091. Publications Incorporated by Reference.

(1) The "Criteria Manual ~~Basis of Review~~for Use or Occupancy of the Works or Lands of the District ~~Permit Applications within the South Florida Water Management District~~ -- ~~September 15, 1999~~ "("Criteria Manual")(NEED TO INCLUDE HYPERLINK TO DOCS), which includes separate and distinct minimum criteria developed to address the unique characteristics and operational needs of the respective areas of the District~~for the Okeechobee Basin, the Big Cypress Basin, and the STA's, is hereby published by reference and incorporated into this Chapter~~.

(2) The works and lands of the District ~~lands and works~~ subject to this Chapter are adopted by the Governing Board by Resolution in accordance with the provisions of section 373.086, F.S.,~~The District's lands and works are listed in the document referenced in subsection (1) and are hereby published by reference and incorporated into this Chapter~~A current list of the adopted Works of the District is available upon request and can also be located on the District's website (www.sfwmd.gov).

(3) The document listed in subsection (1) is published by the District and available upon request, as well as located on the District's website.

Attachment: 2013-04-26 Chapter 40E-6 FAC (1313 : ROW - Rule Adoption)

RulemakingSpecific Authority 373.044, 373.113 FS. Law Implemented 373.085, 373.086, 403.0877 FS. History--New 9-3-81, Formerly 16K-5.01(3), Amended 12-29-86, 12-24-91, 9-15-99, _____.

40E-6.101. Content of Application. (REPEALED)

(1) Applications for permits required by this Subpart shall be filed with the District. The applications shall contain the following information:

(a) Form NGP-1 "Application to the South Florida Water Management District for Right-of-Way Notice General Permit" effective date September 15, 1999, which is hereby incorporated by reference and which may be obtained at the South Florida Water Management District, 3301 Gun Club Road, West Palm Beach, Florida 33406;

(b) The applicant's name and address including zip code and phone number;

(c) All owner's names, as appearing on the tax rolls, and complete address and phone numbers if applicant or user is other than the owner(s);

(d) The project location relative to County, Section, Township and Range; Lot, Block and Subdivision; or a metes and bounds description;

(e) Whether the proposed use is a modification, an existing use, or is a new use;

(f) A description of the proposed use of or encroachment on works or lands of the District;

(g) A description of the proposed use of or encroachment on works or lands of the District and in which zone, as depicted in Figure 1, the proposed use will be located;

(h) Six copies of a scaled or fully dimensioned 8-1/2 " x 11" drawing, reflecting the proposed use in plan and elevation views, related to the applicable work of the District, and tied to a known reference point in the immediate area of the proposed use. Larger drawings or aerial photographs shall be required, if necessary to adequately show the location and nature of the proposed use. A property survey, indicating the location of the District right-of-way boundary line shall also be provided.

1. All drawings shall utilize English units of measure or a combination of both English and metric units of measure. Vertical datum shall be National Geodetic Vertical Datum (1929), North American Vertical Datum(1988), or Mean Sea Level and the datum utilized shall be specified on the drawing(s).

2. All drawings for seawalls or bulkheads and subaqueous or pile supported crossings shall be supported with cross sections of the existing channel. Unless waived or modified by the District pursuant to prior written request by the applicant, soundings for the cross sections shall be taken at 10 foot intervals from top of bank to top of bank and shall be tied to both canal/levee right of way lines. For subaqueous or pile supported crossings a minimum of 3 cross sections shall be supplied by the applicant; one at the point where the proposed crossing crosses the centerline of the canal; and one each upstream and downstream of the crossing at points determined by the District. For seawall or bulkhead projects the District shall determine the number of cross sections required but said cross sections will be no more frequent than one cross section per every 25 feet of proposed bulkheading. Cross sections shall be plotted to the same horizontal and vertical scale using standard 10 x 10 cross section paper or similar CAD format. The cross sections shall have superimposed upon them the design section for the canal at the location and existing cross sectional area below the design water surface shall be accurately calculated by the applicant and printed on or adjacent to each cross section.

Attachment: 2013-04-26 Chapter 40E-6 FAC (1313 : ROW - Rule Adoption)

~~3. Except where exempt pursuant to section 471.003, F.S., drawings for bridge crossings, bulkheads, seawall, retaining walls, hard shoreline stabilization and revetment installations shall be signed and sealed by a Florida registered professional engineer.~~

~~(i) Information sufficient to demonstrate that the proposed use meets the criteria established in the document referred to in Rule 40E-6.091, F.A.C.; and~~

~~(j) The estimated length of time needed for completion of the proposed work once construction has begun.~~

~~(2) Applications shall be signed by both the owner(s) and authorized agent, if applicable.~~

~~(3) Applications shall not be considered complete until such time as all required information as set forth in subsections (1) and (2), above, and insurance and financial assurances in accordance with Rule 40E-6.361, F.A.C., have been received by the District.~~

~~Specific Authority 373.044, 373.113 FS. Law Implemented 373.086, 373.117, 373.118, 471.003 FS. History–New 9-3-81, Formerly 16K-5.04(1), Amended 12-1-82, 12-29-86, 12-24-91, 9-15-99.~~Repealed _____.

40E-6.121. Conditions for Issuance of Notice General Permits. (REPEALED)

~~(1) The District has determined that certain uses shall be authorized under a notice general permit when the proposed location is in an authorized operational zone and the criteria established in the Basis of Review, incorporated by reference in 40E-6.091, F.A.C., have been met. These uses are set forth in the Permit Index Chart included in the Basis of Review. Any facilities currently existing cannot be authorized by a notice general permit and must receive authorization through the standard permit application process or be promptly removed from the District's right of way.~~

~~(2) Due to the nature of the projects, the following facilities and uses cannot be authorized by a Notice General Permit:~~

~~(a) Roadway and highway projects;~~

~~(b) Marinas and public boat launching facilities;~~

~~(c) Linear Parks;~~

~~(d) Permanent buildings and other above-ground structures;~~

~~(e) Crude oil and petroleum product pipelines;~~

~~(f) Other such facilities or uses.~~

~~(3) The District has determined that the proposed activity fully complies with all of the criteria set forth in Rule 40E-6.091, F.A.C.~~

~~(4) Except for utilities, both essential and non-essential, an applicant must own or lease the land adjacent to or served by the portion of the works or lands of the District involved.~~

~~(5) In addition to the requirements and restrictions set forth in subsections (1) to (4), the District, due to its proprietary interest in its lands and works, possesses and exercises all the rights and remedies available to owners of real property through statutory and common law.~~

~~(6) Any and all above ground facilities located within the clear 40 foot wide right of way, as set forth in Rule 40E-6.011(4), F.A.C., or within the right of way at locations where the right of way is less than 40 feet wide, as measured from the top of the canal bank, are prohibited.~~

~~(7) The notice general permit provisions of this rule are not intended to apply to the notice general permit provisions in District Chapter 40E-62, F.A.C.~~

~~(8) The limiting conditions set forth in Rule 40E-6.361, F.A.C., shall be incorporated into every Notice General Permit issued.~~

~~Specific Authority 373.044, 373.113 FS. Law Implemented 373.016, 373.085, 373.086, 373.118 FS. History–New 9-15-99~~Repealed _____.

40E-6.201. Content of Application.

(1) Applications for permits ~~required by this Subpart~~ shall be filed with the District. The ~~standard~~ permit application shall contain the following information:

(a) A completed Form 0122~~SP-1~~ "Application to the South Florida Water Management District for Right of Way Occupancy Permit" effective date ~~September 15, 1999~~_____, which is hereby incorporated by reference and which may be obtained at the South Florida Water Management District, 3301 Gun Club Road, West Palm Beach, Florida 33406;

(b) The applicant's name and address, if other than owner, including zip code and phone number;

(c) All owner's names, as appearing on the tax rolls, and complete address if applicant or user is other than the owner;

(d) The project location relative to County, Section, Township and Range; Lot, Block and Subdivision; or a metes and bounds description;

(e) A description of the portion of the works or lands of the District to be used;

(f) Whether the ~~proposed~~ use is a proposed, existing, or a modification of an existing use~~, or is a new use~~;

(g) A description of the ~~proposed~~ use ~~of~~ or encroachment on works or lands of the District and in which zone, as depicted in Rule 40E-6.011(7), F.A.C ~~Figure 1~~, the ~~proposed~~ use will be located;

(h) At a minimum, ~~Six~~Four (4) copies of ~~a~~ the following scaled or fully dimensioned 8 1/2 " x 11" drawings~~, reflecting~~ the ~~proposed~~ use in plan and elevation views, related to the applicable work of the District, and tied to a known reference point in the immediate area of the proposed use. Larger drawings or aerial photographs shall be required, if necessary to adequately show the location and nature of the proposed use. A property survey, indicating the location of the District right of way boundary line, shall also be provided.

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1. All drawings shall utilize English units of measure or a combination of both English and metric units of measure. Vertical datum shall be National Geodetic Vertical Datum (1929), North American Vertical Datum (1988), or Mean Sea Level and the datum utilized shall be specified on the drawing(s).

2. All drawings ~~for seawalls or bulkheads and subaqueous or pile supported crossings shall be supported with cross sections of the existing channel. Unless waived or modified by the District pursuant to prior written request by the applicant, soundings for the cross sections shall be taken at 10 foot intervals from top of bank to top of bank and shall be tied to both canal/levee right of way lines. For subaqueous or pile supported crossings a minimum of 3 cross sections shall be supplied by the applicant; one at the point where the proposed crossing crosses the centerline of the canal; and one each upstream and downstream of the crossing at points determined by the District. For seawall or bulkhead projects the District shall determine the number of cross sections required but said cross sections will be no more frequent than one cross section per every 25 feet of proposed bulkheading. Cross sections shall be plotted to the same horizontal and vertical scale using standard 10 x 10 cross section paper or similar CAD format. The cross sections shall have superimposed upon them the design section for the canal at the location and existing cross sectional area below the design water surface shall be accurately calculated by the applicant and printed on or adjacent to each cross section~~.

~~3. Except where exempt pursuant to section 471.003, F.S., drawings for bridge crossings, bulkheads, seawall, retaining walls, hard shoreline stabilization and revetment installations shall be signed and sealed by a Florida registered professional engineer.~~

(i) Information sufficient to demonstrate that the ~~proposed~~ use meets the criteria established in the document referred to in Rule 40E-6.091, F.A.C.; and

(j) The estimated length of time needed for completion of the proposed work once construction has begun.

(2) Applications shall be signed by both the owner(s) and/or authorized agent, if applicable.

(3) Applications shall not be considered complete until such time ~~as all required information~~ as the following have been received and accepted by the District:

(a) all requirements set forth in subsections (1) and (2), above,

(b) ~~and~~ insurance and financial assurances in accordance with Rule 40E-6.361, F.A.C.; and

(c) all land interests required for access and/or maintenance easements in connection with applications for permits that impede, ~~have been reviewed by the~~ District access.

(4) If the District determines that the application is incomplete, the District shall request the information needed to complete the application within 30 days of its receipt. The applicant shall have 90 days from receipt of a timely request for additional information to submit that information to the District.

Rulemaking~~Specific~~ Authority 373.044, 373.113 FS. Law Implemented 373.085(1), 373.086, 373.117, 471.003 FS. History--New 9-15-99, Amended _____.

40E-6.221. Conditions for Issuance of ~~Standard~~ Permits.

(1) The District has determined that certain uses shall be authorized under a notice general permit when located in an authorized operational zone and the activity fully complies with all of the criteria set forth in the Criteria Manual, in corporate by reference in Rule 40E-6.091, F.A.C. These uses are set forth in the Permit Index Chart included in the Criteria Manual.

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(~~1~~2) The District has determined that certain uses, not eligible for a notice general permit, shall be authorized under a standard permit when located in an authorized zone and when they comply with the criteria established in the ~~Basis of Review~~ Criteria Manual, incorporated by reference in Rule 40E-6.091, F.A.C. These uses are set forth in the Permit Index Chart included in the ~~Basis of Review~~ Criteria Manual.

(~~2~~3) In determining whether ~~standard~~ a permit should be issued, the District shall consider whether the ~~proposed~~ activity unduly burdens the District's interests. In making this decision, the District shall weigh the following critical factors:

(a) interferes with the present or future construction, alteration, operation or maintenance of the works or lands of the District;

(b) is consistent with the policy and objectives of Chapter 373, F.S., including the legislative declaration of policy contained in section 373.016, F.S.

(c) has an actual or potential negative impact upon environmentally sensitive areas, which include: wetlands; endangered or threatened species habitat; aquatic preserves; Outstanding Florida Waters; Class I or Class II waters; federal, state and privately owned parks and wildlife management areas; designated areas of critical state concern; lands purchased by federal, state and local governments for the purpose of environmental protection, water resource protection and aesthetics; and lands which contain native terrestrial plant species in significant amounts. Environmentally sensitive areas include areas on and off-site that are affected by activities which occur on, or are initiated from, the works of the District;

(d) degrades water quality within the receiving water body or fails to meet the provisions of Ch. 373, F.S., the state water policy, and Title 40E, F.A.C.;

(e) involves a discharge of wastewater from a new wastewater source or an increased discharge from an existing wastewater source;

(f) will discharge debris or aquatic weeds into works of the District or cause erosion or shoaling within the works of the District;

(g) is supported by financial assurances, which will ensure that the proposed activity will be conducted in accordance with Chapter373, F.S., and Chapter 40E-6, F.A.C.;

(h) interferes with scientific activities;

(i) presents an increased liability risk to the District;

(j) meets the general and specific criteria in the ~~Basis of Review~~ Criteria Manual which is incorporated by reference in Rule40E-6.091, F.A.C.;

(k) interferes with actual or potential public use of the District's works or lands, including public recreational or other facilities not within the District's works;

(l) meets applicable criteria in Chapter~~s~~ 40E-61~~ and 40E-62;~~, F.A.C.

(m) The natures of the District's property interest.

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(n) Any and all above-ground facilities located within the clear 40 foot wide right of way, as set forth in Rule 40E-6.011(4), F.A.C., or within the right of way at locations where the right of way is less than 40 feet wide, as measured from the top of the canal bank landward, are prohibited, except for:

1. safety features associated with public works projects; and
2. installations necessary to support District works, including but not limited to utilitites.

(~~3~~4) The District shall consider a permit applicant's past and present violation of any District rules or permit conditions, including enforcement action, when determining whether the applicant has provided reasonable assurances that District standards will be met.

(~~4~~5) Activities which can be carried out through the District's real property acquisition and disposal policy will not be eligible for a permit under this chapter.

(~~5~~6) The District shall also consider the cumulative impact of allowing the proposed use. Based upon the cumulative impact of allowing similar uses in the affected area, the District shall deny uses which appear insignificant with regard to the above criteria if the cumulative impact is significant.

(~~6~~7) The structural integrity of bridges across District works or lands shall be certified by a professional engineer registered in the State of Florida, except as provided in Section 471.003, F.S.

(~~7~~8) In those instances where the District does not own the underlying fee simple title, applicants may be required to show the necessary legal interest from the owner of the underlying fee. The District does not, however, assume any duty to protect the legal rights of the underlying fee owner.

(~~8~~9) Except for utilities, ~~N~~no commercial uses on the District's fee-owned rights of way will be authorized by a Right of Way Occupancy Permit, ~~allowed on District rights of way~~but may be authorized by a lease and/or agreement with the District. ~~There shall, however, be no presumption against allowing~~ C~~c~~ommercial use of the District's ~~right of way by utilities.~~ non fee-owned rights of way by the underlying fee-owner may be allowed, provided such authorizations take into consideration those determining factors set forth in Rule 40E-6.221(3), F.A.C.

(~~9~~10) Except for utilities and governmental entities, ~~both essential and non essential,~~ an applicant must own or lease the land underlying or adjacent to or served by the portion of the works or lands of the District involved.

(~~10~~11) In addition to the requirements and restrictions set forth in Subsections (1) through (9), the District, due to its proprietary interest in its lands and works, possesses and exercises all the rights and remedies available to owners of real property through statutory and common law.

(12) The Limiting Conditions set forth in Rule 40E-6.361, F.A.C. shall be incorporated into every Permit issued.

(13) Special Conditions that are site specific shall be incorporated into every Permit as may be necessary in the best interest of the District.

Rulemaking~~Specific~~ Authority 373.044, 373.113 FS. Law Implemented 373.016, 373.085, 373.086, 373.117, 471.003 FS. History--New 9-15-99, Amended _____.

40E-6.321. Duration of Permits.

(1) Permits issued prior to the effective date of ~~September 15, 1999~~??new date??, and which do not comply with the ~~Basis of Review~~Criteria Manual incorporated by reference in Rule 40E-6.091, F.A.C., shall expire upon the change

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of ownership of the property unless transferred pursuant to Rule 40E-6.351, F.A.C., below. However, ~~T~~these authorizations ~~shall~~may ~~not~~ be transferred to a new property owner if the activity complies with Rule 40E-6.221(3)(a) – (i), (m). Otherwise it~~and~~ must be immediately removed from the District's right of way. ~~unless a new permit application has been submitted and approved by the District~~.

(2) Unless revoked or otherwise modified, the duration of a right of way occupancy permit is:

(a) as set forth in the permit, including the special conditions to the permit; or

(b) after construction is complete, perpetual, unless revoked.

(3) ~~Permits authorizing construction expire automatically on~~ Once issued, a permit is valid to the date indicated on the face of the permit~~,~~ unless construction of the authorized facilities has begun. Otherwise, a written request for extension must be~~is~~ received by the District on or before the expiration date. If an extension has not been requested prior to the expiration of the permit, a new application, including the application processing fee, must be submitted. ~~Upon the expiration of a permit, all construction activities must cease until the new permit has been issued. Extensions of the construction period may be granted administratively, or in cases involving litigation, environmental, water resource, or other impact, shall be referred to the Governing Board for final action.~~ The District ~~shall~~ has the right to decline ~~to~~ the extend~~d~~sion of a permit authorizing construction if the proposed use is no longer consistent with the objectives of the District or other provisions of these rules.

Rulemaking~~Specific~~Authority 373.044, 373.113 FS. Law Implemented 373.085, 373.086 FS. History--New 9-3-81, Formerly 16K-5.07, Amended 12-29-86, 9-15- 99, _____.

40E-6.331. Modification of Permits.
(1) Applications for permit modifications required by this Chapter shall be filed by formal application, including the permit modification application fee, with the District.

(2) Applications for modification to permitted uses shall be reviewed using the same criteria as new applications, pursuant to Rules 40E-6.091~~, 40E-6.121,~~ and 40E-6.221, F.A.C.

(3) Letter modifications may be issued by District staff, provided the requested modification:

(a) does not substantially alter the permit authorization;

(b) does not interfere with construction, operation and maintenance of District lands or works; and
(c) is otherwise consistent with the purposes and policies of Chapter 373, F.S., and Chapter40E-6, F.A.C.

(4) Under sections 373.083 and 373.085, F.S., the District is authorized to modify a permit when it determines that the currently permitted use has become inconsistent with the factors and conditions enumerated in Rule~~s 40E-6.121 and~~ 40E-6.221, F.A.C.

(5) Permit modifications may be initiated by the District in accordance with the provisions of Chapter 40E-1, F.A.C.

Rulemaking~~Specific~~ Authority 373.044, 373.113 FS. Law Implemented 373.016, 373.085, 373.086 FS. History--New 9-3-81, Formerly 16K-5.11(1), Amended 12-29-86, 12-24-91, 9-15-99, _____.

40E-6.341. Revocation of Permits.

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(1) Under sections 373.083 and 373.085, F.S., the District is authorized to revoke a right of way occupancy permit under any of the following circumstances:

(a) the P~~p~~ermittee or his agent has committed any of the acts enumerated in Rule 40E-1.609, F.A.C.;

(b) the permitted use interferes or will interfere with the construction, alteration, operation, or maintenance of present or proposed works or lands of the District;

(c) the P~~p~~ermittee has failed to immediately comply with an emergency or other order issued pursuant to Rule~~s40E-1.611 and~~ 28-106.501~~28-107.005~~, F.A.C.;

(d) the permitted use is no longer consistent with the factors and conditions enumerated in Rule~~s40E-6.121 and~~ 40E-6.221, F.A.C., the provisions of Chapter 373, F.S., Title 40E, F.A.C., and the state water policy, Chapter 62-40, F.A.C.;

(e) the permitted use is inconsistent with any provision of this rule, or any subsequent revisions to this rule, including any provision of the ~~Basis of Review~~Criteria Manual, incorporated by reference in Rule 40E-6.091, F.A.C.; or

(f) the permitted use is no longer consistent with District policy, based upon a change in District policy.

(2) Right of Way Occupancy P~~p~~ermits are subject to immediate revocation by the District's Executive Director with the concurrence of the Governing Board if an emergency condition exists and the continued exercise of the permit might endanger lives, human safety or property.

(3) Revocations for reasons specified in subsection (1) shall be conducted in accordance with the procedures specified in Rules 40E-1.609 and 28- 107.004, F.A.C. Emergency revocations under subsection (2) shall be conducted in accordance with the procedures specified in Rule 28-107.005, F.A.C.

(4) The provisions herein shall take precedence over the general revocation provisions set forth in Rule 40E-1.609(1)(a) through (e), F.A.C., as the permit program governing use of works and lands of the District is a proprietary based program. To the extent there is any conflict between the general provisions of Chapter 40E-1, F.A.C., the specific provisions of Chapter 40E-6, F.A.C., shall prevail.

Rulemaking~~Specific~~ Authority 373.044, 373.113 FS. Law Implemented 120.60(5), 373.085, 373.086, 373.129 FS. History--New 9-3-81, Formerly 16K- 5.07(3), (4), Amended 12-29-86, 12-24-91, 9-15-99, _____.

40E-6.351. Transfer of Permits.

(1) As the District has no control over the sale or transfer of real or personal property, it is the sole obligation of a P~~p~~ermittee or their agent to disclose the existence of a Right of Way Occupancy Permit, its terms and conditions, to prospective purchasers.

(2) Right of Way Occupancy Permits shall be transferred when:

(a) The request is otherwise consistent with the provisions of these rules and Chapter 373, F.S.

(b) The applicant demonstrates that the permitted use still qualifies for a permit under Rule~~s40E-6.121 or~~ 40E-6.221, F.A.C.

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(c) The applicant agrees to abide by the provisions of Chapter 373, F.S., this chapter, and the terms and conditions of the permit, including these rules, including the standard limiting conditions, and criteria which are applicable at the time of the request for transfer.

(d) The adjoining land use has not changed.

(e) The request for transfer is accompanied~~, when required,~~ with the correct fee as set forth in Rule 40E-6.601(3)(j), F.A.C.

(f) The applicant authorizes the District~~agrees~~ to record a Notice of Permit in the official records of the county clerk's office ~~as specified by the District~~ where the project is located.

(g) In cases where unauthorized facilities or uses have been added that are not included in the permit authorization, a permit transfer request must also be accompanied by a request for modification pursuant to Rule 40E-6.331, F.A.C.

~~(3) Right-of-Way Occupancy Permits will be transferred without a fee when the request for transfer is received within twelve (12)months from the change of ownership, as evidenced by the date of transfer of ownership appearing in the deed or other instrument of conveyance.~~

~~(4) Requests for transfer of Right-of-Way Occupancy Permits shall be assessed a fifty ($50.00) dollar processing fee when the request is received by the District more than twelve (12) months from the date of change of ownership but prior to eighteen (18) months from the change of ownership, as evidenced by the date of transfer of ownership appearing in the deed or other instrument of conveyance.~~

~~(5) Transfers requested more than 18 months from the date of change of ownership shall be denied and require the submission of an application and the appropriate application processing fee.~~

(~~6~~3) All transfers require a field inspection and shall not become effective until such inspection is conducted and confirms all existing facilities and uses are permitted and ~~all uses~~ comply with the criteria in Rule 40E-6.091, F.A.C., and the conditions of issuance in Rule~~s 40E-6.121 or~~ 40E-6.221, F.A.C. If additional facilities are present, no transfer will be allowed unless the unauthorized facility or use is removed immediately and the right of way restored; or~~.~~ Applicants must submit a new ~~standard~~ permit application, along with the appropriate application processing fee, for all additional facilities not removed and not currently authorized by a Right of Way Occupancy Permit.

(~~7~~4) The District staff shall not issue transfers until all financial assurance and insurance requirements, if any, have been provided and accepted by the District staff.

Rulemaking~~Specific~~ Authority 373.044, 373.109, 373.113 FS. Law Implemented 373.085, 373.086, 373.109 FS. History--New 9-3-81, Formerly 16K-5.10, 16K-5.11(2), 16K-5.12, Amended 12-29-86, 9-15-99, _____.

40E-6.361. Financial Assurances and Insurance.

(1) The District shall require the applicant requesting a right of way occupancy permit to provide and maintain financial assurances to the District and its successors, in the form of a cash bond to be held by the District in a non-interest bearing account, a performance bond issued by a licensed bonding company, a letter of credit issued by a financial institution authorized to do business in the State of Florida, or other such instrument approved by the District to ensure full compliance with terms of the permit, including the proper construction, operation, and maintenance of the facility. The amount and type of financial assurance shall be determined by the District.

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(a) In instances where the District authorizes use of its rights of way as a temporary haul or access road, which does not include crossing over District structures or associated facilities, the amount of the financial assurance shall be Five Thousand ($5,000.00) Dollars per half mile or multiple thereof, with a minimum amount of Five Thousand($5,000.00) Dollars.

(b) In instances where the District authorizes the construction of a private bridge on or across the District's right of way, the amount of the financial assurance shall be based upon a professional engineer's or certified demolition company's itemized estimate, to be provided by and paid for by the applicant, of the cost of the demolition of the bridge, removal of the debris, and restoration of the right of way. Such estimates shall be reviewed and approved by District staff.

(c) In instances where the District authorizes the installation of a water or sewer force main installation on or across the District's right of way other than those constructed by governmental entities, the amount of the financial assurance shall be based upon a professional engineer's or certified demolition company's itemized estimate, to be provided by and paid for by the applicant, of the cost of the demolition of the water or sewer force mains, removal of the debris, and restoration of the right of way. Such estimates shall be reviewed and approved by District staff. Upon acceptance by the governmental entity of the facility and the issuance of a permit transfer by District staff, such financial assurances shall be released.

(d) Any other uses of the District's right of way authorized by the District are subject to adequate financial assurances as determined necessary and reasonable by District staff based upon a complete review of the unique circumstances and the potential liability, both personal injury and property damage, and environmental risks involved with the specific authorized use.

(2) In addition to the provision for financial assurances as provided in subsection (1), above, the District shall require liability insurance, naming the District as an additional insured, in such amount and type as the District staff determines necessary. All insurance must be written by a company duly authorized to do business in the State of Florida or provided pursuant to a self insurance program consistent with the requirements of Florida law.

(3) Any applicable financial assurance or insurance requirement set forth above shall be maintained as a condition of the continued validity of the right of way occupancy permit.

Rulemaking~~Specific~~ Authority 373.044, 373.113 FS. Law Implemented 373.085, 373.086, 373.103 FS. History--New 9-15-99.

40E-6.381. Limiting Conditions.

The District's authorization to utilize lands and other works constitutes a revocable license (including both notice general permits and standard permits). In consideration for receipt of that license, P~~p~~ermittees shall agree to be bound by the following standard limiting conditions, which shall be included within all permits issued pursuant to this chapter:

(1) All structures on District works for lands constructed by P~~p~~ermittee shall remain the property of P~~p~~ermittee, who shall be solely responsible for ensuring that such structures and other uses remain in good and safe condition. Permittees are advised that other federal, state and local safety standards may govern the occupancy and use of the District's lands and works. The District assumes no duty with regard to ensuring that such uses are so maintained and assumes no liability with regard to injuries caused to others by any such failure.

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(2) Permittee solely acknowledges and accepts the duty and all associated responsibilities to incorporate safety features, which meet applicable engineering practice and accepted industry standards, into the design, construction, operation and continued maintenance of the permitted facilities/authorized use. This duty shall include, but not be limited to, Permittee's consideration of the District's regulation and potential fluctuation, without notice, of water levels in canals and works, as well as the Permittee's consideration of upgrades and modifications to the permitted facilities/authorized use which may be necessary to meet any future changes to applicable engineering practice and accepted industry standards. Permittee acknowledges that the District's review and issuance of this permit, including, but not limited to, any field inspections performed by the District, does not in any way consider or ensure that the permitted facilities/authorized use is planned, designed, engineered, constructed, or will be operated, maintained or modified so as to meet applicable engineering practice and accepted industry standards, or otherwise provide any safety protections. Permittee further acknowledges that any inquiries, discussions, or representations, whether verbal or written, by or with any District staff or representative during the permit review and issuance process, including, but not limited to, any field inspections, shall not in any way be relied upon by Permittee as the District's assumption of any duty to incorporate safety features, as set forth above, and shall also not be relied upon by Permittee in order to meet Permittee's duty to incorporate safety features, as set forth above.

(3) Permittee agrees to abide by all of the terms and conditions of this permit, including any representations made on the permit application and related documents. This permit shall be subject to the requirements of Chapter 373, F.S., and Chapter 40E-6, F.A.C., including all subsequent rule and criteria revisions. Permittee agrees to pay all removal and restoration costs, investigative costs, court costs and reasonable attorney's fees, including appeals, resulting from any action taken by the District to obtain compliance with the conditions of the permit or removal of the permitted use. If District legal action is taken by staff counsel, "reasonable attorney's fees" is understood to mean the fair market value of the services provided, based upon what a private attorney would charge.

(4) This permit does not create any vested rights, and except for governmental entities and utilities, is revocable at will upon reasonable prior written notice. Permittee bears all risk of loss as to monies expended in furtherance of the permitted use. Upon revocation, the Permittee shall promptly modify, relocate or remove the permitted use and properly restore the right of way to the District's satisfaction. In the event of failure to so comply within the specified time, the District may remove the permitted use and Permittee shall be responsible for all removal and restoration costs.

(5) This permit does not convey any property rights nor any rights or privileges other than those specified herein and this permit shall not, in any way, be construed as an abandonment or any other such impairment or disposition of the District's property rights. The District approves the permitted use only to the extent of its interest in the works of the District. Permittee shall obtain all other necessary federal, state, local, special district and private authorizations prior to the start of any construction or alteration authorized by the permit. Permittee shall comply with any more stringent conditions or provisions which may be set forth in other required permits or other authorizations. The District, however, assumes no duty to ensure that any such authorizations have been obtained or to protect the legal rights of the underlying fee owner, in those instances where the District owns less than fee.

(6) Unless specifically prohibited or limited by statute, Permittee agrees to indemnify, defend and save the District (which used herein includes the District and its past, present and/or future employees, agents, representatives, officers and/or Governing Board members and any of their successors and assigns) from and against any and all lawsuits, actions, claims, demands, losses, expenses, costs, attorneys fees (including but not limited to the fair market value of the District's in-house attorneys' fees based upon private attorneys' fees/rates), judgments and liabilities which arise from or may be related to the ownership, construction, maintenance or operation of the permitted use or the possession, utilization, maintenance, occupancy or ingress and egress of the District's right of way which arise directly or indirectly and are caused in whole or in part by the acts, omissions or negligence of the

~~District~~Permittee or of third parties. Permittee agrees to provide legal counsel acceptable to the District if requested for the defense of any such claims.

(7) The District does not waive sovereign immunity in any respect.

(8) The P~~p~~ermittee shall not engage in any activity regarding the permitted use which interferes with the construction, alteration, maintenance or operation of the works of the District, including:

(a) discharge of debris or aquatic weeds into the works of the District;

(b) causing erosion or shoaling within the works of the District;

(c) planting trees or shrubs or erecting structures which limit or prohibit access by District equipment and vehicles, except as may be authorized by the permit. Permittee shall be responsible for any costs incurred by the District resulting from any such interference, as set forth in (a), (b), and (c), above.

(d) leaving construction or other debris on the District's right of way or waterway;

(e) damaging District berms and levees;

(f) the removal of District owned spoil material;

(g) removal of or damage to District locks, gates, and fencing;

(h) opening of District rights of way to unauthorized vehicular access; or

(i) running or allowing livestock on the District's right of way.

(9) The District is not responsible for any personal injury or property damage which may directly or indirectly result from the use of water from the District's canal or any activities which may include use or contact with water from the District's canal, since the District periodically sprays its canals for aquatic weed control purposes and uses substances which may be harmful to human health or plant life.

(10) Permittee shall allow the District to inspect the permitted use at any reasonable time.

(11) Permittee shall allow, without charge or any interference, the District, its employees, agents, and contractors, to utilize the permitted facilities before, during and after construction for the purpose of conducting the District's, routine and emergency, canal operation, maintenance, and construction activities. To the extent there is any conflicting use, the District's use shall have priority over the P~~p~~ermittee's use.

(12) This permit is a non-exclusive revocable license. Permittee shall not interfere with any other existing or future permitted uses or facilities authorized by the District.

(13) The District has the right to change, regulate, limit, schedule, or suspend discharges into, or withdrawals from, works of the District in accordance with criteria established by the Big Cypress Basin, the District, or the U.S. Army Corps of Engineers for the works of the District.

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(14) If the use involves the construction of facilities for a non exempt water withdrawal or surface water discharge, the applicant must apply for and obtain a water use or surface water management permit before or concurrently with any activities which may be conducted pursuant to the right of way occupancy permit.

(15) The District shall notify the local ad valorem taxing authority of the lands affected by the permitted use, where the P~~p~~ermittee owns the underlying fee and derives a substantial benefit from the permitted use. The taxing authority may reinstate such lands on the tax roll. Failure to pay all taxes in a timely manner shall result in permit revocation. Such permit revocation shall not alleviate the responsibility of the P~~p~~ermittee to pay all taxes due and payable.

(16) Permittee shall provide prior written notice to their successors in title of the permit and its terms and conditions.

(17) Permittee ~~shall~~ authorizes the District to record a Notice of Permit through filing the appropriate notice ~~agreed to by the District~~ in the public records of the county or counties where the project is located ~~and by providing the District with proof of filing or through an equivalent procedure. All costs associated with this requirement shall be the responsibility of the permittee~~. Governmental entities and utilities are not subject to this provision.

~~(18) This permit is contingent upon compliance with the recording of the Notice of Permit. Failure to provide proof of the recording of the Notice of Permit will result in the permit becoming invalid on its own terms, the removal of any existing facilities within the right of way, restoration of the right of way to the District's satisfaction, at the permittee's expense, and the possible assessment of civil penalties.~~

(~~19~~18) Permittee shall be responsible for the repair or replacement of any existing facilities located within the District's right of way which are damaged as a result of the installation or maintenance of the authorized facility.

(~~20~~19) All obligations under the terms of this permit authorization and any subsequent modifications hereto shall be joint and several as to all owners.

(~~21~~20) It is the responsibility of the P~~p~~ermittee to make prospective bidders aware of the terms and conditions of this permit. It shall be the responsibility of the P~~p~~ermittee's contractors to understand the terms and conditions of this permit and govern themselves accordingly.

(~~22~~21) It is the responsibility of the P~~p~~ermittee to bring to the attention of the District any conflict in the permit authorization or permit conditions in order that they may be resolved prior to the start of construction. In resolving such conflicts the District's determination will be final.

(22) Special Conditions that are site specific shall be incorporated into every Permit as may be necessary in the best interest of the District.

(23) The District is not responsible for the repair of or claims of damage to any facilities and uses which may incur damage resulting from the District's utilization of its rights of way or use by third parties. Improvements placed within the right of way are done so at the sole risk of the owner.

Rulemaking~~Specific~~ Authority 373.044, 373.113 FS. Law Implemented 373.085(1), 373.086, 373.103, 373.109, 373.129, 373.1395, 373.603, 373.609, 373.613 FS. History--New 9-3-81, Formerly 16K-5.01(2), 16K-5.02(2), 16K-5.03(2), 16K-5.04(4), 16K-5.05, Amended 5-30-82, 12-29-86, 12-24- 91, 9-15-99, _____.

40E-6.451. Emergency Authorization.

(1) Permission to begin use of works or lands of the District prior to the issuance of a permit shall be granted pursuant to Rule ~~40E-1.6115 and~~ 40E-0.108, F.A.C.

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(2) All requests for emergency authorizations must be submitted with both the emergency application processing fee set forth in Rule 40E-6.601(2)(h), F.A.C., in addition to the applicable standard permit application processing fee set forth in Rules 40E-6.601(2)(d) through (g), F.A.C.

(3) In order to be eligible for an emergency permit authorization the applicant must have already filed a standard permit application with the District or simultaneously file a standard permit application with the District.

(4) In addition to the required standard permit application contents, the applicant must also file a written statement with the District which fully explains the basis and circumstances which support and justify the request for emergency authorization.

(5) Mere carelessness or lack of planning on the part of the applicant shall not be sufficient grounds to warrant the granting of an emergency authorization.

(6) The Executive Director may grant an emergency authorization pursuant to section 373.119(2), F.S.

Rulemaking~~Specific~~ Authority 373.044, 373.113 FS. Law Implemented 373.085, 373.086, 373.119, 373.439 FS. History--New 9-3-81, Formerly 16K-5.09, Amended 12-29-86, 7-2-98, 9-15-99. _____

40E-6.481. Emergency Measures.
(1) In addition to the provisions of Rule 40E-6.521, F.A.C., permitted uses are also subject to immediate alteration, repair or removal if an emergency condition exists and the continued exercise of the permitted use might endanger lives or property.

(2) In such event the P~~p~~ermittee shall immediately comply with any written or oral instructions from the District regarding alteration, repair or removal of the permitted use.

(3) If the P~~p~~ermittee fails to remove, alter or repair a permitted use when so ordered by the District, the District may repair, alter or remove it at the P~~p~~ermittee's expense.

(4) Permittee may request an administrative hearing regarding the emergency order in accordance with the procedures set forth in Rule 28-107.004, F.A.C.

(5) In addition to the provision of Rule 40E-6.521, F.A.C., unpermitted uses are also subject to the provisions of this section.

(6) In no circumstances shall the District be responsible for any claims or damages caused in whole or in part, from any necessary emergency removal, alteration, or repair of any permitted or unpermitted use.

(7) All permitted and unpermitted uses are subject to the specific terms of an Emergency Order(s) which may be issued by the District.

Rulemaking~~Specific~~ Authority 373.044, 373.113 FS. Law Implemented 373.085, 373.086, 373.119, 373.439 FS. History--New 9-3-81, Formerly 16K-5.08, Amended 12-29-86, 7-2-98, 9-15-99._____.

40E-6.501. Unlawful Use and Civil Penalties.
(1) It shall be unlawful to connect with, place structures in or across, or otherwise make use of works or lands of the District without a Right of Way Occupancy Permit. The District may use any remedy available to it under Florida

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common law and statutory law and the District's rules, to remove or cause the unpermitted use to be removed, as well as the assessment of civil penalties pursuant to this rule.

(2) It shall be unlawful for any P~~p~~ermittee to violate the provisions of Chapter 373, F.S., Chapter 40E-6, F.A.C., or the terms and conditions of a Right of Way Occupancy Permit. The District shall use any remedy available to it under Florida common law and statutory law and the District's rules, to remove or cause the unpermitted use to be removed, as well as the assessment of civil penalties pursuant to this rule. The District shall, in furtherance of the purposes of Chapter 373, F.S., allow the permitted use to be brought into compliance with the permit by means of a permit modification if the unlawful use complies with the criteria set forth in Rule 40E-6.091,F.A.C.

(3) Damage to works or lands of the District resulting from the violations specified in subsections (1) and (2), above, shall, within the timeframes and in a manner consistent with the District's requirements, be repaired by the violator to the satisfaction of the District, however, the District reserves the right to make any and all necessary repairs, the full cost of which shall be the responsibility of the violator.

(4) Violators shall be responsible for payment of civil penalties up to $10,000.00 per day, per violation, pursuant to section 373.129, F.S., investigative costs and the District's attorney's fees (including appeals).

(5) Factors considered in the assessment of civil penalties shall be:

(a) habitual violator;

(b) threat to health, safety, and welfare (flooding);

(c) immediacy of threat;

(d) severity of impact (size of drainage basin);

(e) potential for damage to surrounding property;

(f) threat to District staff if self-help used;

(g) exposure of District to other liabilities;

(h) environmental impact;

(i) water quality; and

(j) unusual circumstances.

(6) Vessels which are being occupied or used as a temporary or permanent residence or business, or other vessels which have an adverse impact on the District's ability to construct, operate, and maintain its canals and structures, will not be permitted within District works or lands. However, this limitation shall not be construed to prohibit vessels which are actively navigating from place to place.

(7) The planting of any ~~non-native~~ vegetation not included on the District's designated plant list or specifically authorized by District permit within District works or lands will not be permitted.

(8) The abandonment of personal property within District works or lands will not be permitted.

(9) Use of the works or lands of the District as a temporary or permanent place of residence or shelter will not be permitted.

(10) It shall be unlawful for any person or entity to remove any spoil, without authorization from the District, and the District specifically reserves any and all rights to pursue such violations in both criminal and civil proceedings, in addition to the provisions contained herein.

Rulemaking~~Specific~~ Authority 373.044, 373.113, 373.129 FS. Law Implemented 373.085, 373.086, 373.603, 373.609, 373.613 FS. History--New 9- 15-99, Amended _____.

40E-6.521. Self Help.
(1) Unlawful uses or facilities placed within the works or lands of the District are subject to removal and restoration at the District's discretion with no guarantee of salvageability. In no circumstances shall the District be responsible for any claims or damages caused, in whole or in part, from any self help removal and restoration of any unlawful uses or facilities.

(2) When employing self help, the District is not required to provide any notice of its intended action.

(3) The District may seek to recover removal and restoration costs, investigative costs, and attorneys' fees and costs (including appeals) incurred in carrying out self help done to resolve the unlawful use of District works and lands.

Rulemaking~~Specific~~ Authority 373.044, 373.113, 373.129 FS. Law Implemented 373.085, 373.086, 373.603, 373.609, 373.613 FS. History--New 9- 15-99.

40E-6.601. Permit Application Processing Fees.
(1) A permit application processing fee is required and shall be paid to the District when applications are filed pursuant to District rules to connect with and make use of the works ~~and~~or lands of the District. An application is not deemed complete and shall not be processed until the appropriate application fee is submitted. These fees are assessed in order to defray the cost of evaluating, processing, and mailing required in connection with consideration of such applications. Fees are non-refundable in whole or part unless the activity for which an application is filed is determined by the District to be exempt or the fee submitted is determined by the District to be incorrect.

(2) Based upon years of experience in reviewing applications for District right of way occupancy permits, the District has determined that applications for existing facilities or uses require additional staff time and resources (as compared to proposed facilities) in order to thoroughly review and inspect, and this differential shall be reflected in the application processing fees for all right of way occupancy permit authorizations as set forth herein.

(3) The fee for permit applications reviewed pursuant to Chapter 40E-6, F.A.C., are as follows:

(a) Notice General Permit Application, Notice General Permit Modification Application relating to a single family residential use (Category NGP-1) No Fee

a. Existing, unpermitted facilities which would otherwise be eligible for a NGP-1 shall pay the Category SP-1 fee, below.

(b) Notice General Permit Application, Notice General Permit Modification Application for uses proposed by homeowners associations and condominium associations relating to more than one individual lot or dwelling unit(Category NGP-2) $150.00

a. Existing, unpermitted facilities which would otherwise be eligible for a NGP-2 shall pay the Category SP-2 fee, below.

(c) Notice General Permit Application, Notice General Permit Modification Application for uses proposed by developers, builders, corporate entities, utilities, county, state, or local entities (Category NGP-3) $300.00

a. Existing, unpermitted facilities which would otherwise be eligible for a NGP-3 shall pay the Category SP-3 fee, below.

(d) Notice General Permit Application, Notice General Permit Modification Application relating to bridges, excluding culvert bridges (Category NGP-4) $900.00

a. Existing, unpermitted facilities which would otherwise be eligible for a NGP-4 shall pay the Category SP-4 fee, below.

(e) Standard Permit Application, Standard Permit Modification Application relating to a single family residential use which does not meet Notice General Permit Criteria (Category SP-1) $75.00;

(f) Standard Permit Application, Standard Permit Modification Application relating to uses by homeowners associations and condominium associations and do not meet Notice General Permit Criteria (Category SP-2) $300.00;

(g) Standard Permit Application, Standard Permit Modification Application relating to uses by developers, builders, corporate entities, utilities, county, state, or local entities, as well as all other uses not covered in Categories SP-1, SP-2 and SP-4 (Category SP-3) $625.00;

(h) Standard Permit Application, Standard Permit Modification Application relating to uses involving bridges, linear parks, greenways, similar park and recreation projects, marinas and associated facilities (CategorySP-4) $1750.00;

(i) Application for emergency authorization pursuant to Rule 40E-6.401, F.A.C. $275.00;

(j) Requests for ~~Transfer~~ transfer of Right of Way Occupancy Permits, pursuant to ~~Fees are set forth in~~ Rule 40E-6.351, F.A.C.~~, above.~~ (Transfer) $50.00

(4) Notwithstanding the provisions set forth in this rule, upon request, the District shall waive any and all right of way occupancy permit application processing fees for right of way occupancy permit applications submitted by the governing body of a governmental entity only if provided with a resolution or other documentation as to the reciprocity commitment of the respective governmental entity applying for the right of way occupancy permit and clearly establishing that governmental entity's reciprocal waiver of any and all fees required for the District to carry out canal operation, maintenance, and construction activities for the District.

(5) Notwithstanding the provisions set forth in this rule, no permit application processing fee will be required from utilities or other necessary service providers, where the permitted facility or use of the works or lands of the District is required to supply utility or other necessary service to an existing or proposed District facility.

(6) The above permit application processing fees shall not apply to either the Seminole Tribe of Florida or the Miccosukee Tribe of Indians of Florida for facilities and uses located exclusively within the boundaries of their respective reservations or included in leases with the District.

Rulemaking~~Specific~~ Authority 373.044, 373.109, 373.113 FS. Law Implemented 373.109, 373.085, 373.086 FS. History--New 9-15-99, Amended_____.

40E-6.701 C-18 Policy and Purpose.

(1) In addition to the policies and purposes enumerated in Rule 40E-6.011, F.A.C., the C-18 canal right of way, downstream of the District's S-46 structure, was established as a revegation area in order to implement a policy for revegetation of the C-18 canal right of way through the use of a small scale land use plan. The intent of the revegetation plan ("C-18 Plan") is to restore the natural river values of the northwest fork of the Loxahatchee River and Limestone Creek for the benefit of all canal right of way users. The purposes of the revegetation plan include maintenance of flood control protection, increasing diversity and desirability of wildlife habitat, providing filtering and water quality benefits, and considering the goals of adjacent landowners.

Rulemaking Authority 373.044, 373.113 F.S. Law Implemented 373.085, 373.086 F.S. History–Formerly 40E-62.021, New_____.

40E-6.711 C-18 Canal Right of Way Boundary.

The boundary of the C-18 canal right of way which is the subject of this rule lies east of District Structure S-46 to the easterly limit of the Canal right of way. The boundary is generally depicted on the map in Figure 62-1. The map is for illustrative purposes only and should not be relied upon for conveyances of title to real property.

Rulemaking Authority 373.044, 373.113 F.S. Law Implemented 373.085, 373.086 F.S. History–Formerly 40E-62.023, New_____.

40E-6.721 C-18 Permits Required.

In addition to the requirements of Section 40E-6.041(1), F.A.C.,:

(1) an occupancy permit must be obtained prior to removing, maintaining, or pruning vegetation, mooring boats, and placing other items on, across, under, or upon District lands and works along the C-18 canal right of way.

(2) General Permits shall be issued for ocupancy or uses of the C-18 right of way that are consistent with the use zones provided for in Rule 40E-6.751, F.A.C.

(3) The District shall require a standard right of way occupancy permit pursuant to Rule 40E-6.221, F.A.C., for any occupancy or use of the C-18 right of way which does not comply with the C-18 revegetation plan set forth herein.

(4) Occupancy or uses of the C-18 right of way which are inconsistent with the use zones provided for in Rule 40E-6.751, F.A.C., will not be eligible for a general permit under these rules.

(5) All projects located within the C-18 canal right of way which require permits pursuant to Rules 40E-6.041 and 40E-6.721, F.A.C., shall be constructed, altered, operated, and maintained in accordance with the standards and criteria specified in Rules 40E-6.091, 40E-6.201, and 40E-6.751, F.A.C. The most restrictive criteria will apply unless the applicant can demonstrate to the District's satisfaction through accepted methodology that the policy and purpose of C-18 revegetation plan will be fulfilled using alternative criteria.

(6) An occupancy permit issued pursuant to this Part may be revoked if the permitted use or maintenance practices are no longer consistent with the use zones specified in Rule 40E-6.751, F.A.C.

Rulemaking Authority 373.044, 373.113 F.S. Law Implemented 373.085, 373.086 F.S. History–Formerly 40E-62.041, 40E-62.042, 40E-62.043, 40E-62.341, New_____.

40E-6.731 C-18 Exemptions.

(1) No permit is required under this Part for the improved boat docks in existence as of September 3, 1981, which include, but may not be limited to the boat dock located on lot 25.2, Figure 62-1, on the south side of the C-18 canal approximately 1900 feet west of Loxahatchee River Road (the Moore dock).

(2) The exemption provided in section (1) above shall be in effect for as long as the property owner on the established date for the C-18 revegtation plan (1-23-1990), owns and occupies the premises. A change in ownership or occupancy of the designated lot shall subject the boat dock to the requirements of the C-18 plan.

Rulemaking Authority 373.044, 373.113 F.S. Law Implemented 373.085, 373.086 F.S. History–Formerly 40E-62.051, New_____.

40E-6.741 C-18 Limiting Conditions.

All projects which have been permitted pursuant to the C-18 Plan shall be subject to the following limiting conditions, in addition to all limiting conditions set forth in Rule 40E-6.381, F.A.C.:

(1) Maintenance practices or other activities not authorized by an occupancy permit which result in clearing or destruction of plant materials or modification of ground slopes or elevations shall be corrected by the permittee. Should the correction not be performed in a timely manner, the District may pursue corrective action against the permittee. In the event the permittee does not pursue the necessary corrective action, District forces may perform the work. In the event District forces perform the restorative work, the permittee shall be liable for the restoration costs.

(2) The District may install access control fences on District property on the C-18 right of way at locations to be determined by the District. Access control fences may obstruct or eliminate the view corridor overlay zones associated with said fence.

(3) The District may modify the vegetation on District property on the C-18 right of way at locations to be determined by the District.

(4) The permittee shall not engage in any activity in the area associated with the permit which interferes with the District's construction, alteration, maintenance or operation of the C-18 canal right of way, and shall be responsible for any costs incurred by the District resulting from any such interference including, but not limited to:

(a) Discharging debris or aquatic weeds into the C-18 canal, including the renovated portions of Limestone Creek;

(b) Causing erosion or shoaling within the C-18 canal right of way;

(c) Mooring watercraft or other floating objects;

(d) Planting plants which are not included in the District's authorized plant list or which are not authorized by the permit;

(e) Placing plants in undesirable locations or locations not authorized by the permit.

(5) The permittee shall not engage in any activity which interferes with the environmental preservation and enhancement of the C-18 canal right of way, including, but not limited to:

(a) Trimming or removing existing natural mangroves unless in strict accordance with current permits;

(b) Trimming or removing vegetation along the C-18 canal right of way.

(6) The limiting conditions provided by Rule 40E-6.381, F.A.C.

Rulemaking Authority 373.044, 373.113 F.S. Law Implemented 373.083, 373.085, 373.086, 373.103, 373.129 F.S. History–Formerly 40E-62.381, New_____.

40E-6.751 C-18 Use Zones.

(1) The following sections identify and describe the eight use zones that have been established within the C-18 canal right of way. Three of the use zones are identified as overlay zones. The overlay zones occupy lands in common with the other use zones and further define the use regulations in the underlying zone area. The eight use zones are:

(a) Canal Flood Zone;

(b) General Wildlife Area Zone;

(c) Limestone Creek Shallow Zone;

(d) Limestone Creek Zone;

(e) Fire Control Zone;

(f) Intertidal Wet Area Overlay Zone;

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(g) Canal Flood Overlay Zone; and

(h) View Corridor Overlay Zone. The use zones are generally depicted in Figure 1. The overlay zones are generally depicted in Figure 1. The following provisions identify uses which are consistent and inconsistent with each use zone.

(2) The District has identified water skiing, jet skiing, and any other boating activity that produces boat wakes as inconsistent with the Canal Flood Zone, the Limestone Creek Shallow Zone, and the Limestone Creek Zone. Although the District does not have jurisdiction to regulate such activities, the District encourages users of the C-18 canal to observe no wake speeds. The District will also cooperate with the appropriate regulatory authorities to establish and maintain no wake zones in the above specified zones.

(3) There may be locations in the Limestone Creek Shallow Zone and the Limestone Creek Zone where boat docks and access platforms are proposed for installation on private property. The District views such boat docks and access platforms as inconsistent with the initial phases of the revegetation plan and discourages, but cannot and does not prohibit, construction of such boat docks and access platforms until the revegetation plan succeeds and until no wake speeds are established.

(4) Canal Flood Zone

(a) Description: This zone consists of the primary canal cross section designed for flood control. Said zone is defined as the area consisting of the canal, including 105' bottom width, 1 on 2 side slopes from elevation -6.0 to -3.0, 1 on 5 side slopes from elevation – 3.0 to 3.0, or the channel as it currently exists. This zone shall be free of floating or submerged obstructions.

(b) Consistent uses include the following:

1. Fishing;
2. Public watercraft sightseeing and cruising;
3. Environmental study and appreciation;
4. Swimming;
5. Maintenance activities conducted by the District and the permittee; and
6. Navigation signs.

(c) Inconsistent uses include the following:

1. Mooring boats or other floating items;
2. Docks of any kind; and
3. Any activity which blocks, impedes or creates turbulence in the flow of water from flood control discharges.

(5) General Wildlife Area Zone

(a) Description: This zone consists of lands from above elevation 3.0 to the edge of the C-18 canal right of way. The area within this zone is intended for the primary use of wildlife and therefore is designed to provide food, cover and resting places for wildlife.

(b) Consistent uses include the following:

1. Typical and normal activities of wildlife residing in or visiting the area;
2. Environmental study and appreciation;
3. Public passage from upland, off-site areas to the C-18 canal right of way, including Limestone Creek;
4. Maintenance activities conducted by the District and the permittee;
5. Paths which meet the requirements of subsection 40E-62.651(5)(e), F.A.C.;
6. Permitted utility uses; and
7. Small group picnicking.

(c) Inconsistent uses include the following:

1. Clearing or substantial thinning of vegetation;
2. Capturing, trapping, hunting or otherwise taking, harassing or destroying wildlife, not including fishing and shellfishing activities or removing dangerous wildlife, such as poisonous snakes and rats;
3. Camping; and
4. Large group picnicking.

(d) Public passage areas shall not interfere with areas designed for food, cover, resting and passageways for wildlife. Users of the C-18 canal right of way are advised to dress properly for passage through native vegetation and are further advised that wildlife may be encountered.

(e) A general permit is in effect pursuant to this Part for paths which are designed and maintained for access by residents adjacent to the C-18 canal right of way subject to the following requirements:

1. Paths shall meet District design standards, generally following an irregular alignment in order to minimize interruption to wildlife areas, to minimize opening direct viewing corridors from the C-18 canal, and to discourage passage of the general public from the right of way onto private property;

2. Paths shall be a maximum of six feet in width;

3. Path design shall include a landscape plan, a maintenance plan and details necessary to illustrate proposed construction. Sod and regular intervals of mowing will not be considered an acceptable path;

4. Paths located within the C-18 right of way shall be open to the public; the District will consider alternative designs for paths which would allow access to the handicapped; and

5. The District recognizes that adjacent property owners may erect signs or other barriers on their own property in order to limit public access to private property from the C-18 right of way.

(6) Limestone Creek Shallow Zone

(a) Description: This zone consists of the portions of Limestone Creek that are specified and designed to be one to two feet deep. This zone includes the portions of Limestone Creek depicted in Figure 1 and further described as follows:

1. Adjacent to River Oaks: Lots 17-21.

2. Adjacent to Jupiter Landings: 10' east of the westerly line of the boat storage area extending 56' east of the Central Blvd. bridge.

3. Adjacent to Riverwalk: 75' east of the Central Blvd. bridge extending to 500' east of the Central Blvd. bridge.

4. Adjacent to the remaining single family uses along the South of the Canal: 3000' east of the Central Blvd. bridge to 1100' west of the Loxahatchee River Road bridge.

(b) Consistent uses include the following:

1. Fishing;

2. Boating by low speed, low noise watercraft;

3. Environmental appreciation; and

4. Permitted maintenance activities.

(c) Inconsistent uses include the following:

1. Recreational or other activities that damage or remove plant or bank material.

(7) Limestone Creek Zone

(a) Description: This zone consists of the portions of Limestone Creek that are designed to be greater than two feet in depth and are not a part of the Limestone Creek Shallow Zone.

(b) Consistent uses include the following:

1. Fishing;

2. Environmental appreciation;

3. Sightseeing by water; and

4. Limited subdivision access, subject to zone requirements.

(c) Zone requirements for the Limestone Creek Zone include the following:

1. The adjacent residents have indicated interest in access to the water by subdivision. During the period that revegetation is proceeding, the District will allow limited subdivision access consisting of one access area per subdivision for the purpose of canoe access and pedestrian access. Conditions will be specified per subdivision and will include, but not be limited to:

a. The revegetation is proceeding without delay and with success;

b. Subdivisions shall agree to design, construct and maintain access areas according to the provisions of Section 40E-62.651(7)(c)2., F.A.C.

2. Limited subdivision access areas shall meet the following requirements:

a. Design of all facilities which connect with the C-18 canal right of way or Limestone Creek shall be approved by the District through the permit process established by this Part;

b. The C-18 canal right of way shall remain open to the public;

c. Water access facilities placed upon the C-18 right of way shall be open to the general public and shall contain a permanent sign so stating; the sign shall be visible and legible from the center of the adjacent water area;

d. Access areas shall be available to the District for inspection, maintenance and other activities associated with District functions;

e. Access areas shall be kept in good repair, free of litter and provide minimum interruption to the view from the C-18 canal right of way; access areas will be landscaped to maximize the use of plant materials to blend the access area into the river character; uses related to the access point, such as parking, picnic, fish cleaning and similar uses will be screened from view; the design of access areas shall include a swale or other suitable system extending the entire length of the lot, including the access ramp, intended to divert overland water flows from paved areas into vegetated areas; such systems and vegetated areas are to provide detention of runoff to encourage percolation of water through earth and vegetation; and

f. Electrical and water facilities may be included on subdivision access facilities; facilities shall be designed to meet applicable county and city safety and building requirements; lighting fixtures shall be shielded downward and/or designed so as to minimize light pollution and glare to the surrounding areas; water facilities shall be designed and maintained to function with no erosion or discharge of waste into the C-18 canal or Limestone Creek; said facilities shall not be for the purpose of providing service to live aboard boats or boat repair facilities.

(8) Fire Control Zone

(a) Description: This zone is intended to provide a buffer safety area to help prevent the spread of wildfire from the C-18 canal right of way onto private property. This zone shall consist of a fifteen foot wide area containing low native ground covers or grasses and mature native trees.

(b) Shrubs and trees that invade this zone may be removed to maintain the low character and protection; provided however, that mature trees must not be removed without a permit from the District.

(9) Intertidal Wet Area Overlay Zone

(a) Description: This zone includes lands that are inundated during periods of high tide, during parts or all of the year, and generally exposed during periods of low tide.

(b) Consistent uses include the following:

1. Maintenance and monitoring activities; and

2. Permitted utility uses, provided disturbed vegetation is replaced.

(c) Zone requirements for the Intertidal Wet Area Overlay Zone include the following:

1. Plants in this zone, especially mangroves, are not to be removed or pruned unless there is a current permit approved by Palm Beach County; a District permit issued pursuant to this Part, and any other permits required by law; pruning must be performed in strict accordance with the terms of all applicable permits.

(10) Canal Flood Overlay Zone

(a) Description: This zone consists of an overlay of the Canal Flood Zone including both sides of the canal from elevation - 1.5, as measured from the edge of the water at low tide, to the top of the canal bank, as measured from the edge of the canal.

(b) Consistent uses include the following:

1. Fishing;

2. Environmental study and appreciation;

3. Temporary, not to exceed approximately four hours, stopping and anchoring of watercraft for permitted public recreational purposes;

4. Permitted maintenance activities; and

5. Swimming.

(c) Inconsistent uses include the following:

1. Recreational or other activities which damage or remove plant material or soil;

2. Camping; and

3. Mooring watercraft to mangroves.

(11) View Corridor Overlay Zone

(a) Description: This zone is intended to provide for a view of the canal from adjacent residential buildings. The District's intent is to allow vegetation on these areas with ground cover plant materials that remain low enough to allow view over the top, and trees that, when mature, allow view under the canopy.

(b) Consistent uses include the following:

1. Uses allowed in the underlying zones; and

2. Scenic viewing of the canal from residences.

(c) Inconsistent uses include the following:

1. Uses that substantially obstruct the intended view, unless the obstruction is caused by immature vegetation; and

2. Uses that are not consistent with underlying zones.

(d) Zone regulations for the View Corridor Overlay Zone:

1. Maintenance will be limited to minimal care of plant materials;

2. Ground covers will be left at their natural height with no mowing or clearing;

3. Pathways shall conform to regulations in the General Wildlife Zone;

4. Tree pruning shall require a current District permit issued pursuant to this Part, prior written notification, and District approval each time a Permittee proposes to prune. Said notification shall include photographs of the trees(s) to be pruned;

5. Permit applications shall include photographs of the tree prior to work being accomplished.

Rulemaking Authority 373.044, 373.113 F.S. Law Implemented 373.085, 373.086 F.S. History– Formerly 40E-62.651, New _____.

40E-62.011 Policy and Purpose. (REPEALED)

~~The rules in this chapter establish additional conditions and criteria to ensure that uses of District lands and works are consistent with District management policies which have been developed on a site-specific basis for designated lands and works of the District. The conditions and criteria delineated in this chapter are in addition to those specified in Chapter 40E-6, F.A.C.~~

Specific Authority 373.044, 373.113 FS. Law Implemented 373.085, 373.086 FS. History–New 1-23-90. Repealed ~~_____~~.

40E-62.020 Scope of Part I. (REPEALED)

~~The rules in this Part shall apply to the occupancy and use of District lands and works located on the C-18 canal right of way downstream of the District's S-46 structure.~~

Specific Authority 373.044, 373.113 FS. Law Implemented 373.085, 373.086 FS. History–New 1-23-90. Repealed ~~_____~~.

40E-62.021 Policy and Purpose. (REPEALED)

~~(1) In addition to the policies and purposes enumerated in Rule 40E-6.011, F.A.C., the rules in Part I implement a policy of revegetation for the C-18 canal right of way through the use of a small scale land use plan. The revegetation plan is intended to restore the natural river values of the northwest fork of the Loxahatchee River and Limestone Creek for the benefit of all canal right of way users. The purposes of the revegetation plan include maintenance of flood control protection, increasing diversity and desirability of wildlife habitat, providing filtering and water quality benefits, and considering the goals of adjacent landowners.~~

~~(2) The rules in Part I identify those uses of the C-18 right of way which are consistent and inconsistent with the revegetation plan. Part I sets forth the requirements for qualifying for a right of way occupancy permit for the C-18 canal right of way and the conditions under which it may be exercised.~~

Specific Authority 373.044, 373.113 FS. Law Implemented 373.085, 373.086 FS. History–New 1-23-90. Repealed ~~_____~~.

40E-62.023 C-18 Canal Right of Way Boundary. (REPEALED)

~~The boundary of the C-18 canal right of way which is the subject of this rule lies east of District Structure S-46 to the easterly limit of the Canal right of way. The boundary is generally depicted on the map in Figure 62-1. The map is for illustrative purposes only and should not be relied upon for conveyances of title to real property. The C-18 boundary which is the subject of this rule is more specifically described to include the area within the boundaries in Palm Beach County, Florida, as follows:~~

~~A parcel of land situate in Section 3, Township 41 South, Range 42 East, and Sections 34 and 35, Townshop 40 South, Range 42 East, Palm Beach County, Florida, more particularly described as follows:~~

~~Commence at the Southwest corner of the Northwest quarter (NW1/4) of said Section 3; thence, South 89° 24' 55" East, along the South line of said Northwest quarter (NW1/4), a distance of 25.00 feet to the POINT OF BEGINNING; thence, North 00° 36' 20" East, a distance of 291.64 feet; thence, North 32° 06' 07" East, a distance of 101.20 feet to the beginning of a curve from which the radius point bears South 57° 53' 53" East, a distance of 1893.47 feet; thence, Northeasterly, along the arc of said curve, a distance of 1372.64 feet through a central angle of 41° 32' 08"; thence, North 73° 38' 15" East, a distance of 451.14 feet; thence, South 89° 20' 07" East, along the South line of the North half (N1/2) of the Northwest quarter (NW1/4) of said Section 3, a distance of 409.75 feet; thence, North 01° 36' 14" East, a distance of 81.38 feet; thence, North 61° 32' 34" East, a distance of 1621.45 feet to the beginning of a curve from which the radius point bears North 28° 27' 26" West, a distance of 440.50 feet; thence, Northeasterly along the arc of said curve, a distance of 318.53 feet through a central angle of 41° 25' 50"; thence, North 20° 06' 44" East, a distance of 58.36 feet to the beginning of a curve from which the radius point bears South 69° 53' 16" East, a distance of 1425.00 feet; thence, Northeasterly, along the arc of said curve, a distance of 1517.13 feet, through a central angle of 61° 00' 00"; thence, North 81° 06' 44" East, a distance of 567.41 feet to the East line of said Section 34; thence, South 00° 01' 39" East, along said East line of Section 34, a distance of 25.30 feet; thence, North 84° 06' 33" East, a distance of 1355.34 feet to a point on the East right of way line of Loxahatchee River Road; thence, North 85° 44' 25" East, a distance of 991.00 feet; thence, South 06° 53' 27" East, a distance of 503.49 feet; thence, South 83° 08' 23" West, a distance of 1086.65 feet to a point on the center line of Loxahatchee~~

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~~River Road; thence, South 84° 06' 33" West, a distance of 1324.72 feet to the East line of said Section 34; thence, South 00° 01' 39" East, along said East line of Section 34, a distance of 29.05 feet; thence, South 81° 06' 44" West, a distance of 473.87 feet to the beginning of a curve from which the radius point bears South 08° 53' 16" East, a distance of 825.00 feet; thence, Southwesterly along the arc of said curve, a distance of 878.34 feet through a central angle of 61° 00' 00"; thence, South 20° 06' 44" West, a distance of 58.36 feet to the beginning of a curve from which the radius point bears North 69° 53' 16" West, a distance of 1040.50 feet; thence, Southwesterly, along the arc of said curve, a distance of 752.39 feet through a central angle of 41° 25' 50"; thence, South 61° 32' 34" West, a distance of 1201.30 feet to a point on the East line of said Northwest quarter (NW1/4) of Section 3 and the West right of way line of Central Boulevard Extension; thence, South 01° 54' 07" West a distance of 57.94 feet along said West right of way line and said East line of the Northwest quarter (NW1/4) of said Section 3; thence, South 61° 32' 34" West, a distance of 495.21 feet; thence, South 73° 38' 15" West, a distance of 15.11 feet; thence, North 88° 15' 37" West, a distance of 307.41 feet; thence, South 01° 44' 23" West, a distance of 50.00 feet; thence, North 88° 15' 37" West, a distance of 300.00 feet; thence, South 01° 44' 23" West, a distance of 95.95 feet; thence, South 73° 38' 15" West, a distance of 264.78 feet to the beginning of a curve from which the radius point bears South 16° 21' 45" East, a distance of 1243.47 feet; thence, Southwesterly, along the arc of said curve, a distance of 345.17 feet through a central angle of 15° 54' 16"; thence, South 01° 37' 49" East, non tangent to the preceding curve, a distance of 58.69 feet to a point on a non-tangent curve from which the radius point bears South 33° 43' 14" East, a distance of 1193.47 feet; thence, Southwesterly, along the arc of said curve, a distance of 503.62 feet through a central angle of 24° 10' 39"; thence, South 32° 06' 07" West, a distance of 14.05 feet to the South line of the Northwest quarter (NW1/4) of said Section 3; thence, North 89° 24' 55" West, a distance of 642.39 feet along said South line of the Northwest quarter (NW1/4) of said Section 3 to the POINT OF BEGINNING. The above described parcel of land contains 117.84 acres, more or less. The bearings recited herein are based on the Florida State Plane Coordinate System, East Zone.~~

~~Together with:~~

~~That part of the following described lands lying South of the South right of way for Canal 18; Commencing at the Northeast corner of the West half of the Southwest quarter of Section 35, Township 40 South, Range 42 East, and proceed Southerly along the Eastern boundary of said West half of the Southwest quarter of said Section a distance of 1006 feet to a point on said line, said point beginning the POINT OF BEGINNING; thence, proceed at right angles to said Eastern boundary line in a Westerly direction a distance of 817 feet to a point; thence at right angles in a Southerly direction and parallel to said Eastern boundary line a distance of 234 feet to a point; thence at right angles to said Eastern boundary line in a Westerly direction a distance of 492 feet to a point on the Western boundary line of said West half of the Southwest quarter of said Section; thence in a Southerly direction along said West line of Section 35, a distance of 972.00 feet more or less to a point on said line where the center line of Limestone Creek intersects said line; thence following the meandering center line of said Limestone Creek in an Easterly direction to a point on the Eastern boundary line of said West half of the Southwest quarter of Section 35 where the center line of said Creek intersects; thence in a Northerly direction along said Eastern boundary of said West half of the Southwest quarter of Section 35 to the POINT OF BEGINNING; LESS the right of way of the C-18 Canal, as described in Official Record Book 152, page 569, Public Records of Palm Beach County, Florida, and LESS the right of way of the Loxahatchee River Road. Area = 2.62 acres ±~~

Specific Authority 373.044, 373.113 FS. Law Implemented 373.085, 373.086 FS. History–New 1-23-90. Repealed ~~_____~~.

40E-62.041 Permits Required. (REPEALED)

~~(1) In addition to the requirements of Section 40E-6.041(1), F.A.C., an occupancy permit must be obtained prior to constructing, planting, maintaining, pruning, mooring boats, and placing other items on, across, under, or upon District lands and works along the C-18 canal right of way.~~

~~(2) The provisions of Rule 40E-6.041, F.A.C., are incorporated by reference into this Part.~~

Specific Authority 373.044, 373.113 FS. Law Implemented 373.085, 373.086 FS. History–New 1-23-90. Repealed ~~_____~~.

40E-62.042 General Permit for Occupancy or Use of the C-18 Right of Way. (REPEALED)

~~(1) The rules in this Part grant general permits for occupancy or uses of the C-18 right of way which are consistent with the use zones provided for in Rule 40E-62.651, F.A.C.~~

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~~(a) General permits authorized by this Part shall be processed in accordance with the time frames, application forms, and application fees established pursuant to Chapters 40E-1 and 40E-6, F.A.C.~~

~~(b) The District shall require an individual permit pursuant to Chapter 40E-6, F.A.C., for any occupancy or use of the C-18 right of way which does not comply with this Part, is harmful to the water and related land resources of the District, is inconsistent with the C-18 use zones contained in Rule 40E-62.651, F.A.C., is inconsistent with the overall objectives of the District, or is otherwise contrary to the public interest.~~

~~(2) Occupancy or uses of the C-18 right of way which are inconsistent with the use zones provided for in Rule 40E-62.651, F.A.C., will not be eligible for a general permit under this Part.~~

Specific Authority 373.044, 373.113 FS. Law Implemented 373.085, 373.086 FS. History–New 1-23-90. Repealed ~~_____.~~

40E-62.043 Application of Part. (REPEALED)

~~All projects located within the C-18 canal right of way which require permits pursuant to Rules 40E-6.041 and 40E-62.041, F.A.C., shall be constructed, altered, operated, and maintained in accordance with the standards and criteria specified in Rules 40E-6.091, 40E-6.301, and 40E-62.651, F.A.C. The most restrictive criteria will apply unless the applicant can demonstrate to the District's satisfaction through accepted methodology that the policy and purpose of this Part will be fulfilled using alternate criteria.~~

Specific Authority 373.044, 373.113 FS. Law Implemented 373.085, 373.086 FS. History–New 1-23-90. Repealed ~~_____.~~

40E-62.051 Exemptions. (REPEALED)

~~(1) No permit is required under this Part for the improved boat docks in existence as of September 3, 1981, which include, but may not be limited to the following existing uses of the C-18 right of way:~~

~~(a) The existing boat dock located on lot 25.4, Figure 62-1, on the south side of the C-18 canal approximately 1800 feet west of Loxahatchee River Road (the Olsen dock).~~

~~(b) The existing boat dock located on lot 25.2, Figure 62-1, on the south side of the C-18 canal approximately 1900 feet west of Loxahatchee River Road (the Moore dock).~~

~~(2) The exemptions provided in section (1) above shall be in effect for as long as the property owner on the effective date of this rule owns and occupies the premises. A change in ownership or occupancy of the designated lots shall subject the boat docks to the requirements of this Part.~~

Specific Authority 373.044, 373.113 FS. Law Implemented 373.085, 373.086 FS. History–New 1-23-90. Repealed ~~_____.~~

40E-62.101 Content of Application. (REPEALED)

~~Applications for permits under this Part shall be filed with the District in accordance with the provisions of Rule 40E-6.101, F.A.C.~~

Specific Authority 373.044, 373.113 FS. Law Implemented 373.085, 373.086 FS. History–New 1-23-90. Repealed ~~_____.~~

40E-62.301 Conditions for Issuance of Permits. (REPEALED)

~~In determining whether an occupancy permit should be issued the District shall consider whether the proposed activity:~~

~~(1) Is consistent with the use zones established pursuant to Rule 40E-62.651, F.A.C.~~

~~(2) Meets the conditions of Rule 40E-6.301, F.A.C.~~

Specific Authority 373.044, 373.113 FS. Law Implemented 373.085, 373.086 FS. History–New 1-23-90. Repealed ~~_____.~~

40E-62.321 Duration of Permits. (REPEALED)
~~The duration of occupancy permits issued in accordance with this Part shall be as specified in Rule 40E-6.321, F.A.C.~~

Specific Authority 373.044, 373.113 FS. Law Implemented 373.085, 373.086 FS. History–New 1-23-90. Repealed _____.

40E-62.331 Modification of Permits. (REPEALED)
~~Applications for modification to permitted uses shall be made in the same manner and reviewed using the same criteria and standards as new uses pursuant to Rules 40E-62.101, 40E-62.301, and 40E-62.321, F.A.C.~~

Specific Authority 373.044, 373.113 FS. Law Implemented 373.085, 373.086 FS. History–New 1-23-90. Repealed _____.

40E-62.341 Revocation of Permits. (REPEALED)
~~(1) An occupancy permit issued pursuant to this Part may be revoked if the permitted use or maintenance practices are no longer consistent with the use zones specified in Rule 40E-62.651, F.A.C.~~
~~(2) Permits issued pursuant to this Part may be revoked pursuant to Rule 40E-6.341, F.A.C.~~

Specific Authority 373.044, 373.113 FS. Law Implemented 373.085, 373.086 FS. History–New 1-23-90. Repealed _____.

40E-62.351 Transfer of Permits. (REPEALED)
~~Permits issued pursuant to this Part may be transferred in accordance with the provisions of Rule 40E-6.351, F.A.C.~~

Specific Authority 373.044, 373.113 FS. Law Implemented 373.085, 373.086 FS. History–New 1-23-90. Repealed _____.

40E-62.381 Limiting Conditions. (REPEALED)
~~All projects which have been permitted pursuant to this Part shall be subject to the following limiting conditions:~~
~~(1) Maintenance practices or other activities not authorized by an occupancy permit which result in clearing or destruction of plant materials or modification of ground slopes or elevations shall be corrected by the permittee. Should the correction not be performed in a timely manner, the District may pursue corrective action against the permittee. In the event the permittee does not pursue the necessary corrective action, District forces may perform the work. In the event District forces perform the restorative work, the permittee shall be liable for the restoration costs.~~
~~(2) The District may install access control fences on District property on the C-18 right of way at locations to be determined by the District. Access control fences may obstruct or eliminate the view corridor overlay zones associated with said fence.~~
~~(3) The District may modify the vegetation on District property on the C-18 right of way at locations to be determined by the District.~~
~~(4) The permittee shall not engage in any activity in the area associated with the permit which interferes with the District's construction, alteration, maintenance or operation of the C-18 canal right of way, and shall be responsible for any costs incurred by the District resulting from any such interference including, but not limited to:~~
~~(a) Discharging debris or aquatic weeds into the C-18 canal, including the renovated portions of Limestone Creek;~~
~~(b) Causing erosion or shoaling within the C-18 canal right of way;~~
~~(c) Mooring watercraft or other floating objects;~~
~~(d) Planting plants which are not included in the District's authorized plant list, Figure 62-4, or which are not authorized by the permit;~~
~~(e) Placing plants in undesirable locations or locations not authorized by the permit.~~
~~(5) The permittee shall not engage in any activity which interferes with the environmental preservation and enhancement of the C-18 canal right of way, including, but not limited to:~~
~~(a) Trimming or removing existing natural mangroves unless in strict accordance with current permits;~~
~~(b) Trimming or removing vegetation along the C-18 canal right of way.~~
~~(6) The limiting conditions provided by Rule 40E-6.381, F.A.C.~~

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Specific Authority 373.044, 373.113 FS. Law Implemented 373.083, 373.085, 373.086, 373.103, 373.129 FS. History–New 1-23-90. Repealed _____.

40E-62.651 C-18 Use Zones. (REPEALED)

~~(1) The following sections identify and describe the eight use zones that have been established within the C-18 canal right of way. Three of the use zones are identified as overlay zones. The overlay zones occupy lands in common with the other use zones and further define the use regulations in the underlying zone area. The eight use zones are:~~

~~(a) Canal Flood Zone;~~

~~(b) General Wildlife Area Zone;~~

~~(c) Limestone Creek Shallow Zone;~~

~~(d) Limestone Creek Zone;~~

~~(e) Fire Control Zone;~~

~~(f) Intertidal Wet Area Overlay Zone;~~

~~(g) Canal Flood Overlay Zone; and~~

~~(h) View Corridor Overlay Zone. The use zones are generally depicted in Figure 62-2. The overlay zones are generally depicted in Figure 62-3. The following provisions identify uses which are consistent and inconsistent with each use zone.~~

~~(2) The District has identified water skiing, jet skiing, and any other boating activity that produces boat wakes as inconsistent with the Canal Flood Zone, the Limestone Creek Shallow Zone, and the Limestone Creek Zone. Although the District does not have jurisdiction to regulate such activities, the District encourages users of the C-18 canal to observe no wake speeds. The district will also cooperate with the appropriate regulatory authorities to establish and maintain no wake zones in the above specified zones.~~

~~(3) There may be locations in the Limestone Creek Shallow Zone and the Limestone Creek Zone where boat docks and access platforms are proposed for installation on private property. The District views such boat docks and access platforms as inconsistent with the initial phases of the revegetation plan and discourages, but cannot and does not prohibit, construction of such boat docks and access platforms until the revegetation plan succeeds and until no wake speeds are established.~~

~~(4) Canal Flood Zone~~

~~(a) Description: This zone consists of the primary canal cross section designed for flood control. Said zone is defined as the area consisting of the canal, including 105' bottom width, 1 on 2 side slopes from elevation -6.0 to -3.0, 1 on 5 side slopes from elevation -3.0 to 3.0, or the channel as it currently exists. This zone shall be free of floating or submerged obstructions.~~

~~(b) Consistent uses include the following:~~

~~1. Fishing;~~

~~2. Public watercraft sightseeing and cruising;~~

~~3. Environmental study and appreciation;~~

~~4. Swimming;~~

~~5. Maintenance activities conducted by the District and the permittee; and~~

~~6. Navigation signs.~~

~~(c) Inconsistent uses include the following:~~

~~1. Mooring boats or other floating items;~~

~~2. Docks of any kind; and~~

~~3. Any activity which blocks, impedes or creates turbulence in the flow of water from flood control discharges.~~

~~(5) General Wildlife Area Zone~~

~~(a) Description: This zone consists of lands from above elevation 3.0 to the edge of the C-18 canal right of way. The area within this zone is intended for the primary use of wildlife and therefore is designed to provide food, cover and resting places for wildlife.~~

~~(b) Consistent uses include the following:~~

~~1. Typical and normal activities of wildlife residing in or visiting the area;~~

~~2. Environmental study and appreciation;~~

~~3. Public passage from upland, off-site areas to the C-18 canal right of way, including Limestone Creek;~~

~~4. Maintenance activities conducted by the District and the permittee;~~

~~5. Paths which meet the requirements of subsection 40E-62.651(5)(e), F.A.C.;~~

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~~6. Permitted utility uses; and~~
~~7. Small group picnicking.~~
~~(c) Inconsistent uses include the following:~~
~~1. Clearing or substantial thinning of vegetation;~~
~~2. Capturing, trapping, hunting or otherwise taking, harassing or destroying wildlife, not including fishing and shellfishing activities or removing dangerous wildlife, such as poisonous snakes and rats;~~
~~3. Camping; and~~
~~4. Large group picnicking.~~
~~(d) Public passage areas shall not interfere with areas designed for food, cover, resting and passageways for wildlife. Users of the C-18 canal right-of-way are advised to dress properly for passage through native vegetation and are further advised that wildlife may be encountered.~~
~~(e) A general permit is in effect pursuant to this Part for paths which are designed and maintained for access by residents adjacent to the C-18 canal right-of-way subject to the following requirements:~~
~~1. Paths shall meet District design standards, generally following an irregular alignment in order to minimize interruption to wildlife areas, to minimize opening direct viewing corridors from the C-18 canal, and to discourage passage of the general public from the right-of-way onto private property;~~
~~2. Paths shall be a maximum of six feet in width;~~
~~3. Path design shall include a landscape plan, a maintenance plan and details necessary to illustrate proposed construction. Sod and regular intervals of mowing will not be considered an acceptable path;~~
~~4. Paths located within the C-18 right-of-way shall be open to the public; the District will consider alternative designs for paths which would allow access to the handicapped; and~~
~~5. The District recognizes that adjacent property owners may erect signs or other barriers on their own property in order to limit public access to private property from the C-18 right-of-way.~~
~~(6) Limestone Creek Shallow Zone~~
~~(a) Description: This zone consists of the portions of Limestone Creek that are specified and designed to be one to two feet deep. This zone includes the portions of Limestone Creek depicted in Figure 62-1 and further described as follows:~~
~~1. Adjacent to River Oaks: Lots 17-21.~~
~~2. Adjacent to Jupiter Landings: 10' east of the westerly line of the boat storage area extending 56' east of the Central Blvd. bridge.~~
~~3. Adjacent to Riverwalk: 75' east of the Central Blvd. bridge extending to 500' east of the Central Blvd. bridge.~~
~~4. Adjacent to the remaining single family uses along the South of the Canal: 3000' east of the Central Blvd. bridge to 1100' west of the Loxahatchee River Road bridge.~~
~~(b) Consistent uses include the following:~~
~~1. Fishing;~~
~~2. Boating by low speed, low noise watercraft;~~
~~3. Environmental appreciation; and~~
~~4. Permitted maintenance activities.~~
~~(c) Inconsistent uses include the following:~~
~~1. Recreational or other activities that damage or remove plant or bank material.~~
~~(7) Limestone Creek Zone~~
~~(a) Description: This zone consists of the portions of Limestone Creek that are designed to be greater than two feet in depth and are not a part of the Limestone Creek Shallow Zone.~~
~~(b) Consistent uses include the following:~~
~~1. Fishing;~~
~~2. Environmental appreciation;~~
~~3. Sightseeing by water; and~~
~~4. Limited subdivision access, subject to zone requirements.~~
~~(c) Zone requirements for the Limestone Creek Zone include the following:~~
~~1. The adjacent residents have indicated interest in access to the water by subdivision. During the period that revegetation is proceeding, the District will allow limited subdivision access consisting of one access area per subdivision for the purpose of canoe access and pedestrian access. Conditions will be specified per subdivision and will include, but not be limited to:~~
~~a. The revegetation is proceeding without delay and with success;~~

~~b. Subdivisions shall agree to design, construct and maintain access areas according to the provisions of Section 40E-62.651(7)(c)2., F.A.C.~~

~~2. Limited subdivision access areas shall meet the following requirements:~~

~~a. Design of all facilities which connect with the C-18 canal right-of-way or Limestone Creek shall be approved by the District through the permit process established by this Part;~~

~~b. The C-18 canal right-of-way shall remain open to the public;~~

~~c. Water access facilities placed upon the C-18 right-of-way shall be open to the general public and shall contain a permanent sign so stating; the sign shall be visible and legible from the center of the adjacent water area;~~

~~d. Access areas shall be available to the District for inspection, maintenance and other activities associated with District functions;~~

~~e. Access areas shall be kept in good repair, free of litter and provide minimum interruption to the view from the C-18 canal right-of-way; access areas will be landscaped to maximize the use of plant materials to blend the access area into the river character; uses related to the access point, such as parking, picnic, fish cleaning and similar uses will be screened from view; the design of access areas shall include a swale or other suitable system extending the entire length of the lot, including the access ramp, intended to divert overland water flows from paved areas into vegetated areas; such systems and vegetated areas are to provide detention of runoff to encourage percolation of water through earth and vegetation; and~~

~~f. Electrical and water facilities may be included on subdivision access facilities; facilities shall be designed to meet applicable county and city safety and building requirements; lighting equipment should be designed so as to minimize glare on the surface of or across the C-18 canal; water facilities shall be designed and maintained to function with no erosion or discharge of waste into the C-18 canal or Limestone Creek; said facilities shall not be for the purpose of providing service to live aboard boats or boat repair facilities.~~

~~(8) Fire Control Zone~~

~~(a) Description: This zone is intended to provide a buffer safety area to help prevent the spread of wildfire from the C-18 canal right-of-way onto private property. This zone shall consist of a fifteen-foot wide area containing low native ground covers or grasses and mature native trees.~~

~~(b) Shrubs and trees that invade this zone may be removed to maintain the low character and protection; provided however, that mature trees must not be removed without a permit from the District.~~

~~(9) Intertidal Wet Area Overlay Zone~~

~~(a) Description: This zone includes lands that are inundated during periods of high tide, during parts or all of the year, and generally exposed during periods of low tide.~~

~~(b) Consistent uses include the following:~~

~~1. Maintenance and monitoring activities; and~~

~~2. Permitted utility uses, provided disturbed vegetation is replaced.~~

~~(c) Zone requirements for the Intertidal Wet Area Overlay Zone include the following:~~

~~1. Plants in this zone, especially mangroves, are not to be removed or pruned unless there is a current permit approved by Palm Beach County; a District permit issued pursuant to this Part, and any other permits required by law; pruning must be performed in strict accordance with the terms of all applicable permits.~~

~~(10) Canal Flood Overlay Zone~~

~~(a) Description: This zone consists of an overlay of the Canal Flood Zone including both sides of the canal from elevation - 1.5, as measured from the edge of the water at low tide, to the top of the canal bank, as measured from the edge of the canal.~~

~~(b) Consistent uses include the following:~~

~~1. Fishing;~~

~~2. Environmental study and appreciation;~~

~~3. Temporary, not to exceed approximately four hours, stopping and anchoring of watercraft for permitted public recreational purposes;~~

~~4. Permitted maintenance activities; and~~

~~5. Swimming.~~

~~(c) Inconsistent uses include the following:~~

~~1. Recreational or other activities which damage or remove plant material or soil;~~

~~2. Camping; and~~

~~3. Mooring watercraft to mangroves.~~

~~(11) View Corridor Overlay Zone~~

~~(a) Description: This zone is intended to provide for a view of the canal from adjacent residential buildings. The District's intent is to allow vegetation on these areas with ground cover plant materials that remain low enough to allow view over the top, and trees that, when mature, allow view under the canopy.~~

~~(b) Consistent uses include the following:~~

~~1. Uses allowed in the underlying zones; and~~

~~2. Scenic viewing of the canal from residences.~~

~~(c) Inconsistent uses include the following:~~

~~1. Uses that substantially obstruct the intended view, unless the obstruction is caused by immature vegetation; and~~

~~2. Uses that are not consistent with underlying zones.~~

~~(d) Zone regulations for the View Corridor Overlay Zone:~~

~~1. Maintenance will be limited to minimal care of plant materials;~~

~~2. Ground covers will be left at their natural height with no mowing or clearing;~~

~~3. Pathways shall conform to regulations in the General Wildlife Zone;~~

~~4. Tree pruning shall require a current District permit issued pursuant to this Part, prior written notification, and District approval each time a permittee proposes to prune. Said notification shall include photographs of the trees(s) to be pruned;~~

~~5. Permit applications shall include photographs of the tree prior to work being accomplished.~~

Specific Authority 373.044, 373.113 FS. Law Implemented 373.085, 373.086 FS. History–New 1-23-90. Repealed ~~_____~~.

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M E M O R A N D U M

TO: Governing Board Members

FROM: Doug Bergstrom, Director, Administrative Services Division

DATE: June 13, 2013

SUBJECT: Monthly Financial Statement – April 2013

The attached financial status report is provided for your review. This report provides a high level snapshot of District financial activity and includes revenue collections by source and expenditures by program. Also attached is a summary in the State Program format in compliance with Chapter 373.536(4)(e) F.S., requiring each District to provide a monthly financial statement in the form and manner prescribed by the Department of Financial Services to the District's Governing Board and make such monthly financial statement available for public access on its website. This unaudited financial statement is provided as of April 30, 2013, with 58% of the fiscal year completed.

Schedule of Sources and Uses – This financial statement compares revenues received and encumbrances / expenditures made against the District's FY2013 $622.2 million consumable budget. Encumbrances represent orders for goods and services which have not yet been received.

- As of April 30, 2013, with the fiscal year 58% complete, 76.4% of the District's budgeted operating revenue (excludes fund balance) has been collected. The primary source of operating revenue received to date is taxes. Ad Valorem taxes comprise 68% of the budgeted operating revenues and drive collections based on the annual cycle of the property tax bill. The remaining revenue source is fund balance which represents the amount of prior year residual revenue that is budgeted in the current year and has already been received. Total FY2013 sources collected were 85.1% of budget or $529.2 million.

- As of April 30, 2013, 92.6% of budgeted Ad Valorem tax revenue and 99.8% of budgeted Agricultural Privilege tax revenue have been collected. Ad Valorem and Agricultural Privilege tax collections peak November through January driven by the mailing of property tax bills in October and the 4% maximum discount available when paid in full by November 30. These taxes are budgeted at a discounted rate of 95% to allow for the discounts property owners may take advantage of through early payment options. Historical ad valorem trends for the past five years through April support an average collection rate of 90.1%. Ad Valorem tax revenue will receive one more boost in receipts during the last quarter when June tax certificates are sold by the county tax collectors for delinquent property tax bills.

- As of April 30, 2013, 11.2% of budgeted intergovernmental revenues have been collected. In addition to reimbursement agreements, intergovernmental revenues include proceeds from the sale of Indian River Lagoon and Everglades license plates. Revenue received through March for the sale of license plates totals $223K. The bulk of intergovernmental revenue is from reimbursements from the Save Our Everglades Trust

Attachment: Monthly Financial Statement Memo April FY13(1) (1273 : Monthly Financial Statement – April 2013)

Fund, Water Management Lands Trust Fund, and the Florida Fish and Wildlife Conservation Commission. Reimbursement requests are submitted to the state based on actual expenses incurred and are typically received later in the fiscal year.

- As of April 30, 2013, $2.8 million or 55.8% of budgeted Investment Earnings have been realized. The District budgeted $4.95 million in investment earnings for FY2013 distributed as follows: $4.59 million in ad valorem funds and $362K in non ad valorem funds. Year to date interest earnings in ad valorem funds amount to $2.2 million or 47.7% of the budgeted amount, while interest earnings in non ad valorem funds amount to $577K or 159.1% of the budgeted level. Projected interest earnings in FY13 in ad valorem funds amount to $3,394,000 which is a shortfall of $1,198,000. This will be offset by greater than budgeted revenues from USACE reimbursements, surplus sale proceeds, and permit fees. Investment earnings reflect a downward trend over the past years and are representative of lower cash balances, reduced ad valorem tax levies and lower interest rate yields.

- Lease revenue represents amounts collected from leases of real property owned by the District. The timing of revenue received is based on the fee schedules within the agreements – monthly, semi-annual or annual payments – and these varying timing issues impact the collection rate. The District has currently collected $2.3 million which represents 95.9% of the current year budgeted lease revenue of $2.4 million. The lease revenue collected for lands within restricted categories such as Farm Bill and State Lands require these funds be used within strict guidelines as defined by acquisition agreements.

- Budgeted licenses, permits and fees revenue is from water use permits, environmental resource permits and right of way permits. FY2013 income received totals $13.5 million and is primarily due to unbudgeted receipts of $11.9 million from dedicated Lake Belt and Wetland mitigation fees from restoration projects and fees for mining tonnage removed. The balance of receipts includes permit fees $539K (66.3% of budgeted revenue) and licenses/miscellaneous fees of $1.1 million (74.8% of budgeted revenue). Based on current trend data, there is a projected surplus in environmental resource permit revenue of $305K, and there is a projected surplus in water use permits of approximately $125K.

- Budgeted revenue in the Other category includes $275K in civil penalties and enforcement fees and $250K in miscellaneous revenues such as cash discounts, insurance reimbursements, refunds for prior year expenditures, and sale of recycled oil and scrap metal. Fiscal year collections amount to $520K representing 99% of the budgeted $525K.

- Sale of District Property represents the sale of real property and land. This is budgeted conservatively at 4250,000 due to the uncertainty involved. FY2013 revenues received total $432K.

- Self insurance premiums represent the District's contribution and the contribution from active and retired District employees to the self funded health benefits program. Also included is the District's contribution to the workers compensation, auto and general liability self insurance program. Contributions of $13.6 million received through April equate to 52.7% of the $25.7 million budget and reflect monthly premiums.

Attachment: Monthly Financial Statement Memo April FY13(1) (1273 : Monthly Financial Statement – April 2013)

Expenditure and Encumbrance Status:

As of April 30, 2013, with 58% of the year complete, the District has expended **$232.8 million or 41.7%** and has encumbered **$126.3 million or 22.6%** of its non-reserve budget. The District has obligated (encumbrances plus expenditures) **$359.1 million** or **64.4%** of its non-reserve budget.

Summary of Expenditures and Encumbrances by Program – This financial statement illustrates the effort to date for each of the District's program areas. Provided below is a discussion of the primary uses of funds by program.

- The **Comprehensive Everglades Restoration Plan Program** has obligated 48.6% and expended 12.5% of their $124.8 million budget. Principal expenditures include personnel services ($3.2 million), contractual services ($1.9 million), operating ($623K), and capital outlay ($9.8 million). Contractual services and operating encumbrances ($9.3 million) and capital outlay encumbrances ($35.8 million) include the following projects: L-8 Flow Equalization Basin, C-44 Reservoir/STA Project, CERP Monitoring and Assessment, CERP Water Quality Studies, C-111 Spreader Canal, Southern Crew, Loxahatchee Impoundment Landscape Initiative, Picayune Strand, South Miami Dade Seasonal Operations Study, Biscayne Bay Coastal Wetlands, WCA3 Decompartmentalization and Sheetflow Equalization, and Central Everglades Planning Study.

- The **Coastal Watersheds Program** has obligated 70.0% and expended 31.8% of their total $17.9 million budget. Principal expenditures include personnel services ($1.75 million), contractual services ($3.6 million), operating ($69K), and capital outlay ($257K). Contractual services encumbrances primarily consist of interagency agreements ($5.0 million) including: St. Lucie River and Indian River Lagoon Initiatives Projects, St. Lucie River License Tag Projects in Martin, St. Lucie, and Palm Beach counties, Loxahatchee River Preservation Initiative Projects, Big Cypress Basin Stormwater Projects, Everglades City Water Supply System Improvements, Spanish Creek/Four Corners, Miami Gardens NW 178th Dr. Stormwater Retrofit, Miami River Ecosystem Restoration, El Portal Stormwater Improvements, Mirror Lakes/Halfway Pond Rehydration, Lakes Park Restoration; remaining contractual encumbrances ($1.6 million) include: St. Lucie River and Caloosahatchee River Regulatory Source Controls; Biscayne Bay, Loxahatchee River, St. Lucie River and Caloosahatchee Watershed Research and Water Quality Monitoring; Florida Bay and Coastal Wetlands Project; Lake Trafford Biological Monitoring; Big Cypress Basin Saltwater Network Plan; refinement of hydrological model for Naples Bay; Collier County Water Quality Monitoring; digital flood insurance rate map development for Highlands and Polk Counties. Capital outlay encumbrances ($293K) are for preliminary survey and geo-tech services, environmental assessment, and preliminary design for the Lake Hicpochee Hydrologic Enhancement project.

- The **District Everglades Program** has obligated 52.1% and expended 38.0% of their total $52.4 million budget. Principal expenditures include personnel services ($9.4 million), contractual services ($3.6 million), operating ($3.7 million), and capital outlay ($3.2 million). Contractual services encumbrances ($2.6 million) primarily include the

Attachment: Monthly Financial Statement Memo April FY13(1) (1273 : Monthly Financial Statement – April 2013)

operations monitoring, maintenance, and repair of Stormwater Treatment Areas (STA's), Diesel Oxidation Catalyst Installation, STA 1E Exterior Levee Certification, STA Structure Inspection Program, Sulfur Action Plan, and Everglades Regulation Source Control. Operating encumbrances ($1.0 million) are in support of the overall operations and maintenance of vegetation and exotic plant control of the STA's. Capital outlay encumbrances ($3.8 million) include work on Everglades Agricultural Area A1 Flow Equalization Basin, and STA1W Expansion, completing Compartments B & C, G-250S and G-337 Pump Bearing replacement.

- The **Kissimmee Watershed Program** has obligated 57.8% and expended 6.7% of their total $31.7 million budget. Principal expenditures include personnel services ($903K), contractual services ($625K), operating ($21K), and capital outlay ($572K). Contractual services and operating encumbrances ($1.2 million) primarily consist of the Kissimmee River Restoration Evaluation ($190K), Kissimmee Basin Modeling and Operating System ($561K), the Oak Creek project ($116K), Rolling Meadows ($75K), hydrologic monitoring ($211K), and land acquisition costs and environmental risk assessments ($40K). Capital outlay encumbrances ($15.0 million) are primarily for the Kissimmee River Restoration land acquisition cases and the Kissimmee River Restoration project.

- The **Lake Okeechobee Program** has obligated 61.7% and expended 19.3% of their total $21.9 million budget. Principal expenditures include personnel services ($2.1 million), contractual services ($1.8 million), operating ($207K), and capital outlay ($62K). Contractual services and operating encumbrances ($9.1 million) primarily consist of the Dispersed Water Management and Florida Ranchland Environmental Services Projects ($8.1 million), Information Technology Support ($572K), Northshore Navigation Canal project ($95K), Lake Okeechobee Watershed Pre-Drainage Characterization study ($83K), Phosphorous Source Control project ($40K), Phosphorus Reduction projects ($135K), Water Quality Assessments and reporting ($96K), and Lakeside Ranch STA ($28K). Capital outlay encumbrances ($131K) are primarily for the Lakeside Ranch STA and Dispersed Water Management.

- The **Land Stewardship Program** has obligated 55.6% and expended 30.2% of their total $18.2 million budget. Principal expenditures include personnel services ($2.1 million), contractual services ($2.6 million), operating ($642K), and capital outlay ($101K). Contractual and operating encumbrances ($4.3 million) include the maintenance of vegetation and exotic plant control, provision of law enforcement services, and management of District owned lands and facilities. Capital outlay encumbrances ($316K) are primarily for work on the C-139 Annex Mitigation project.

- The **Mission Support Program** has obligated 56.8% and expended 47.0% of their total $52.2 million budget. Principal expenditures include personnel services ($12.9 million), contractual services ($3.7 million), operating ($7.3 million), and capital outlay ($377K). Contractual services encumbrances ($2.9 million) include Information Technology consulting services, hardware, software, and systems maintenance for the fiscal year; facilities maintenance and repair services, and audit and legal professional services. Operating encumbrances ($1.6 million) include utilities, equipment rental, space rental and advertising. Capital outlay encumbrances ($653K) include design and engineering for the Emergency Operations Center air conditioner system and computer hardware components.

- The **Modeling and Science Support Program** has obligated 62.2% and expended 49.7% of their total $12.9 million budget. Principal expenditures include personnel services ($4.9 million), contractual services ($1.1 million), operating ($305K), and capital outlay ($80K). Contractual services and operating encumbrances ($1.6 million) include technical and peer reviews, computer hardware and software, organic analysis, sediment/water quality sampling, fuel, utilities, and equipment rental. Capital outlay encumbrances ($46K) are primarily for field equipment.

- The **Operations and Maintenance Program** has obligated 77.4% and expended 60.4% of their total $140.9 million budget. Principal expenditures include personnel services ($29.6 million), contractual services ($29.1 million), operating ($19.8 million), and capital outlay ($6.5 million). Encumbrances for contractual services and capital outlay ($22.4 million) primarily relate to the O&M capital program for maintenance and repair of existing water management system canals and water control structures including C-41A Canal Bank Stabilization, North Shore Trash Rake Project, Miami B-47 Building Replacement, Hillsboro Canal Bank Stabilization Design, S-193 Navigation Lock Refurbishment, Diesel Oxidation Catalyst Installation, S-5A Hardening and Service Bridge Refurbishment, S-331 Repower and Gearbox Replacement, S-21 Cathodic Protection, S-2, S-3, S-4 Roof Replacements, Information Technology Shelters, Central and Southern and Central Flood Control Structure Inspections, L-40 Exterior Levee Certification, East Coast Protective Levee, Central Bridges Repairs/Replacements, project culvert replacements, the SCADA Systems Study, Vertical Datum-NAVD88, and Operations Decision Support System software. Operating encumbrances ($1.7 million) are primarily associated with field station daily operations and maintenance including vegetation and exotic plant control for the Central and Southern Flood Control system.

- The **Regulation Program** has obligated 61.4% and expended 55.2% of their total $25.4 million budget. Principal expenditures include personnel services ($9.4 million), contractual services ($786K), operating ($3.7 million), and capital outlay ($92K). Contractual services encumbrances ($1.0 million) include application development, permit scanning contractors/support, and computer hardware and software. Operating encumbrances ($223K) primarily include equipment rental and fuel. Capital outlay encumbrances ($309K) consist primarily of the ePermitting enhancement project which saves time and expenses with online filing/searching of permits.

- The **Water Supply Program** has obligated 69.0% and expended 43.1% of their total $17.6 million budget. Principal expenditures include personnel services ($3.2 million), contractual services ($857K), operating ($3.4 million), and capital outlay ($202K). Contractual services encumbrances ($4.5 million) include the Caloosahatchee Rule Making ($115K), Central Florida Water Initiative ($557K), WaterSIP grants ($265K), Florida Automated Weather Network ($34K), Lower Floridan Aquifer ($76K), interagency agreements for Alternative Water Supply projects ($1.7 million), Big Cypress Basin ($1.4 million), hydrologic data gathering ($324K), and education/outreach ($20K). Capital outlay encumbrances ($29K) consist primarily of the Lower Floridan Aquifer project.

- **Reserves** of $64.1 million are held for future transfer to program areas as project needs and requirements are identified by staff and presented to the Governing Board for review. Sixty million dollars ($60.0 million) of these reserves are designated as economic stabilization reserves, including $10.0 million for O&M capital projects. Remaining managerial reserves include programmatic balances of $254K for O&M, $109K for Everglades, $100K for Mission Support, $69K for regulatory support, $62K for

CERP, $28K for Lake Okeechobee, $9K for scientific support, and $5K for Coastal Watersheds.

FY13 funds intended for FY14 rebudget were moved to reserves. Programmatic balances for these rebudget reserves include $1.4 million for the C-139 Annex Restoration Mitigation Project, $1.1 million for Lake Okeechobee Dispersed Water Management Projects, $705K for the CERP C-111 Project, $122K for Indian River Lagoon Issues Team Projects, $91K for Kissimmee River Littoral Zone Topographic Mapping, $50K for the Everglades EFA Source Control Program, and $15K for educational outreach (Great Water Odyssey).

- **Debt Service** expenses amount to 100% of the total $42.1 million budget. Debt service principal and interest payments include Land Acquisition Bonds issued through the Water Management Lands Trust Fund and Certificates of Participation. Scheduled debt service payments are structured into a single principal payment and partial payment of interest in October and the balance of interest in April.

We hope these reports and the associated narrative will aid in understanding the District's financial condition as well as expenditure performance against the approved budget. If you have any questions, please feel free to call Chris Flierl at (561) 682-6078 or Mike Smykowski at (561) 682-6295.

DB/CF/MS
Attachment

Attachment: Monthly Financial Statement Memo April FY13(1) (1273 : Monthly Financial Statement – April 2013)

South Florida Water Management District

Statement of Sources and Uses of Funds (Unaudited)

For the month ended: April 30, 2013. Percent of fiscal year completed: 58%

SOURCES	ANNUAL BUDGET	ACTUALS THROUGH 4/30/2013	VARIANCE (UNDER) / OVER BUDGET	ACTUALS AS A % OF BUDGET
Ad Valorem Property Taxes	$ 268,114,920	$ 248,225,099	$ (19,889,821)	92.6%
Agricultural Privilege Taxes	11,352,040	11,329,459	(22,581)	99.8%
Intergovernmental - Ad Valorem	5,423,928	2,191,242	(3,232,686)	40.4%
Intergovernmental - Non Ad Valorem	73,312,901	6,627,291	(66,685,610)	9.0%
Intergovernmental Total	**78,736,829**	**8,818,533**	***(69,918,296)***	***11.2%***
Investment Earnings - Ad Valorem	4,592,000	2,189,456	(2,402,544)	47.7%
Investment Earnings - Non Ad Valorem	362,300	576,520	214,220	159.1%
Investment Earnings Total	**4,954,300**	**2,765,977**	***(2,188,323)***	***55.8%***
Leases	2,403,736	2,304,445	(99,291)	95.9%
Permit Fees	812,160	538,720	(273,440)	66.3%
Licenses and Misc. Fees	1,487,150	1,112,199	(374,951)	74.8%
Mitigation Fees - Lake Belt & Wetlands	105,000	11,863,988	11,758,988	11299.0%
Licenses, Permits and Fees Total	**2,404,310**	**13,514,907**	***11,110,597***	***562.1%***
Other	525,000	519,718	(5,282)	99.0%
Sale of District Property	250,000	431,753	181,753	172.7%
Self Insurance Premiums	25,712,821	13,563,481	(12,149,340)	52.7%
SUB-TOTAL OPERATING REVENUES	**394,453,956**	**301,473,373**	***(92,980,583)***	***76.4%***
Fund Balance	227,710,540	227,710,540	-	100.0%
TOTAL SOURCES	**$ 622,164,496**	**$ 529,183,913**	**$ (92,980,583)**	**85.1%**

USES	ANNUAL BUDGET	EXPENDITURES	ENCUMBRANCES[1]	REPORTED AVAILABLE BUDGET	% EXPENDED	% ENCUMBERED	% OBLIGATED[2]
CERP	$ 124,827,392	$ 15,575,121	$ 45,056,080	$ 64,196,191	12.5%	36.1%	48.6%
Coastal Watersheds	17,931,180	5,698,596	6,852,079	5,380,505	31.8%	38.2%	70.0%
District Everglades	52,350,207	19,898,537	7,397,200	25,054,469	38.0%	14.1%	52.1%
Kissimmee Watershed	31,666,662	2,127,335	16,171,832	13,367,495	6.7%	51.1%	57.8%
Lake Okeechobee	21,859,433	4,213,262	9,270,670	8,375,501	19.3%	42.4%	61.7%
Land Stewardship	18,239,736	5,499,621	4,649,439	8,090,677	30.2%	25.5%	55.6%
Mission Support	52,239,365	24,542,372	5,150,461	22,546,532	47.0%	9.9%	56.8%
Modeling & Sci Supp	12,939,475	6,436,594	1,614,538	4,888,343	49.7%	12.5%	62.2%
Ops & Maintenance	140,861,996	85,039,784	24,050,265	31,771,948	60.4%	17.1%	77.4%
Regulation	25,410,876	14,028,402	1,574,563	9,807,911	55.2%	6.2%	61.4%
Water Supply	17,617,143	7,601,698	4,555,605	5,459,840	43.1%	25.9%	69.0%
Debt Service	42,136,957	42,136,954		3	100.0%	0.0%	100.0%
SUB-TOTAL NON-RESERVES USES	*558,080,421*	*232,798,275*	*126,342,733*	*198,939,414*	*41.7%*	*22.6%*	*64.4%*
Reserves	64,084,075	-	-	64,084,075	0.0%	0.0%	0.0%
TOTAL USES	**$ 622,164,496**	**$ 232,798,275**	**$ 126,342,733**	**$ 263,023,489**	**37.4%**	**20.3%**	**57.7%**

[1] Represents unexpended balances of open purchase orders

[2] Represents the sum of expenditures and encumbrances as a percentage of the annual budget

South Florida Water Management District
Statement of Sources and Uses of Funds
For the Month ending April 30, 2013
(Unaudited)

	Current Budget	Actuals Through 4/30/2013	Variance (under)/Over Budget	Actuals as a % of Budget
Sources				
Taxes[1]	$ 279,466,960	$ 259,554,558	$ (19,912,402)	92.9%
Intergovernmental Revenues	78,736,829	8,818,533	(69,918,296)	11.2%
Interest on Invested Funds	4,954,300	2,765,977	(2,188,323)	55.8%
License and Permit Fees	2,404,310	13,514,907	11,110,597	562.1%
Other[2]	28,891,557	16,819,398	(12,072,159)	58.2%
Fund Balance	227,710,540	227,710,540	-	100.0%
Total Sources	**$ 622,164,496**	**$ 529,183,913**	**$ (92,980,583)**	**85.1%**

[1] Includes Ad Valorem and Agricultural Privilege Taxes

[2] Includes Leases, Sale of District Property, and Self Insurance Premiums

	Current Budget	Expenditures	Encumbrances [3]	Available Budget	%Expended	%Obligated [4]
Uses						
Water Resources Planning and Monitoring	$ 54,841,120	$ 25,104,079	$ 11,702,836	$ 18,034,204	45.8%	67.1%
Acquisition, Restoration and Public Works	241,360,125	60,523,349	76,093,279	104,743,496	25.1%	56.6%
Operation and Maintenance of Lands and Works	251,226,024	109,640,106	33,132,264	108,453,654	43.6%	56.8%
Regulation	29,236,669	15,845,588	2,128,764	11,262,317	54.2%	61.5%
Outreach	2,825,914	1,527,636	109,580	1,188,698	54.1%	57.9%
Management and Administration	42,674,645	20,157,516	3,176,010	19,341,118	47.2%	54.7%
Total Uses	**$ 622,164,496**	**$ 232,798,275**	**$ 126,342,733**	**$ 263,023,489**	**37.4%**	**57.7%**

[3] Encumbrances represent unexpended balances of open purchase orders and contracts.

[4] Represents the sum of expenditures and encumbrances as a percentage of the available budget.

This unaudited financial statement is prepared as of April 30, 2013, and covers the interim period since the most recent audited financial statements.

Attachment: Statement of Sources and Uses of Funds_April FY13-State (1273 : Monthly Financial

South Florida Water Management District

Summary of Uses - Statement of Sources and Uses of Funds (Unaudited)

As of: April 30, 2013

	Annual Budget	Expenditures	Encumbrances	Reported Available Budget	% Expended	% Encumbered	% Obligated
CERP							
Personnel Services	$ 6,745,469	$ 3,242,500	-	$ 3,502,969	48.1%	0.0%	48.
Contractual Services	18,232,554	1,920,287	9,158,806	7,153,461	10.5%	50.2%	60.
Operating	1,297,287	623,262	105,945	568,080	48.0%	8.2%	56.
CERP Indirect	4,750,000			4,750,000	0.0%	0.0%	0.
Travel	45,703	16,626	646	28,431	36.4%	1.4%	37.
Capital Outlay	93,756,380	9,772,447	35,790,684	48,193,250	10.4%	38.2%	48.
Total CERP	**124,827,392**	**15,575,121**	**45,056,080**	**64,196,191**	**12.5%**	**36.1%**	**48.**
Coastal Watersheds							
Personnel Services	$ 3,462,578	$ 1,753,617	$ -	$ 1,708,961	50.6%	0.0%	50.
Contractual Services	12,697,429	3,612,938	6,547,727	2,536,764	28.5%	51.6%	80.
Operating	101,932	69,350	10,601	21,981	68.0%	10.4%	78.
Travel	25,115	5,852	1,118	18,146	23.3%	4.5%	27.
Capital Outlay	1,644,126	256,840	292,633	1,094,652	15.6%	17.8%	33.
Total Coastal Watersheds	**17,931,180**	**5,698,596**	**6,852,079**	**5,380,505**	**31.8%**	**38.2%**	**70.**
District Everglades							
Personnel Services	$ 16,656,556	$ 9,385,836	$ -	$ 7,270,720	56.3%	0.0%	56.
Contractual Services	11,752,287	3,601,446	2,608,393	5,542,448	30.6%	22.2%	52.
Operating	7,187,445	3,669,767	1,035,793	2,481,886	51.1%	14.4%	65.
Travel	31,650	6,904	335	24,411	21.8%	1.1%	22.
Capital Outlay	16,722,268	3,234,584	3,752,680	9,735,004	19.3%	22.4%	41.
Total District Everglades	**52,350,207**	**19,898,537**	**7,397,200**	**25,054,469**	**38.0%**	**14.1%**	**52.**
Kissimmee Watershed							
Personnel Services	$ 2,263,385	$ 903,357	$ -	$ 1,360,028	39.9%	0.0%	39.
Contractual Services	11,359,702	625,397	1,171,275	9,563,030	5.5%	10.3%	15.
Operating	71,031	20,939	23,500	26,592	29.5%	33.1%	62.
Travel	22,465	5,568	447	16,450	24.8%	2.0%	26.
Capital Outlay	17,950,078	572,074	14,976,609	2,401,396	3.2%	83.4%	86.
Total Kissimmee Watershed	**31,666,662**	**2,127,335**	**16,171,832**	**13,367,495**	**6.7%**	**51.1%**	**57.**

Attachment: Summary Statement of Sources and Uses of Funds April FY13 (1273 : Monthly Financial

South Florida Water Management District

Summary of Uses - Statement of Sources and Uses of Funds (Unaudited)

As of: April 30, 2013

	Annual Budget	Expenditures	Encumbrances	Reported Available Budget	% Expended	% Encumbered	% Obligated
Lake Okeechobee							
Personnel Services	$ 4,376,880	$ 2,138,987	$ -	$ 2,237,892	48.9%	0.0%	48.
Contractual Services	16,672,730	1,805,538	8,993,928	5,873,263	10.8%	53.9%	64.
Operating	608,119	206,566	146,080	255,474	34.0%	24.0%	58.
Travel	6,356	210	-	6,146	3.3%	0.0%	3.
Capital Outlay	195,348	61,960	130,662	2,726	31.7%	66.9%	98.
Total Lake Okeechobee	**21,859,433**	**4,213,262**	**9,270,670**	**8,375,501**	**19.3%**	**42.4%**	**61.**
Land Stewardship							
Personnel Services	$ 3,638,390	$ 2,147,023	$ -	$ 1,491,367	59.0%	0.0%	59.
Contractual Services	11,140,663	2,602,005	4,082,219	4,456,440	23.4%	36.6%	60.
Operating	1,235,080	642,303	251,345	341,432	52.0%	20.4%	72.
Travel	16,165	7,738	-	8,427	47.9%	0.0%	47.
Capital Outlay	2,209,437	100,551	315,874	1,793,011	4.6%	14.3%	18.
Total Land Stewardship	**18,239,736**	**5,499,621**	**4,649,439**	**8,090,677**	**30.2%**	**25.5%**	**55.**
Mission Support							
Personnel Services	$ 22,535,234	$ 12,930,071	-	$ 9,605,163	57.4%	0.0%	57.
Contractual Services	8,656,479	3,723,535	2,894,780	2,038,164	43.0%	33.4%	76.
Operating	23,433,995	7,294,226	1,574,810	14,564,959	31.1%	6.7%	37.
CERP Indirect	(4,750,000)	-	-	(4,750,000)	0.0%	0.0%	0.
Travel	368,172	217,716	27,696	122,760	59.1%	7.5%	66.
Capital Outlay	1,995,485	376,823	653,175	965,487	18.9%	32.7%	51.
Total Mission Support	**52,239,365**	**24,542,372**	**5,150,461**	**22,546,532**	**47.0%**	**9.9%**	**56.**
Modeling & Science Support							
Personnel Services	$ 9,126,301	$ 4,928,755	$ -	$ 4,197,546	54.0%	0.0%	54.
Contractual Services	2,968,091	1,113,030	1,381,175	473,885	37.5%	46.5%	84.
Operating	673,901	304,797	186,927	182,177	45.2%	27.7%	73.
Travel	43,485	10,105	275	33,104	23.2%	0.6%	23.
Capital Outlay	127,697	79,906	46,161	1,630	62.6%	36.1%	98.
Total Modeling & Science Support	**12,939,475**	**6,436,594**	**1,614,538**	**4,888,343**	**49.7%**	**12.5%**	**62.**

Attachment: Summary Statement of Sources and Uses of Funds April FY13 (1273 : Monthly Financial

South Florida Water Management District

Summary of Uses - Statement of Sources and Uses of Funds (Unaudited)

As of: April 30, 2013

	Annual Budget	Expenditures	Encumbrances	Reported Available Budget	% Expended	% Encumbered	% Obligated
Operations & Maintenance							
Personnel Services	$ 50,059,972	$ 29,608,992		$ 20,450,979	59.1%	0.0%	59.
Contractual Services	45,042,694	29,127,868	12,464,958	3,449,868	64.7%	27.7%	92.
Operating	27,950,049	19,751,043	1,669,622	6,529,385	70.7%	6.0%	76.
Travel	138,502	82,827	6,016	49,658	59.8%	4.3%	64.
Capital Outlay	17,670,779	6,469,053	9,909,669	1,292,057	36.6%	56.1%	92.
Total Operations & Maintenance	**140,861,996**	**85,039,784**	**24,050,265**	**31,771,948**	**60.4%**	**17.1%**	**77.**
Regulation							
Personnel Services	$ 16,587,961	$ 9,446,513	$ -	$ 7,141,449	56.9%	0.0%	56.
Contractual Services	2,025,509	786,413	1,041,876	197,220	38.8%	51.4%	90.
Operating	6,371,187	3,692,872	222,544	2,455,771	58.0%	3.5%	61.
Travel	25,985	11,091	1,423	13,471	42.7%	5.5%	48.
Capital Outlay	400,233	91,512	308,721	-	22.9%	77.1%	100.
Total Regulation	**25,410,876**	**14,028,402**	**1,574,563**	**9,807,911**	**55.2%**	**6.2%**	**61.**
Water Supply							
Personnel Services	$ 5,680,605	$ 3,157,011	$ -	$ 2,523,594	55.6%	0.0%	55.
Contractual Services	6,115,784	856,766	4,516,972	742,046	14.0%	73.9%	87.
Operating	5,560,429	3,383,117	9,420	2,167,891	60.8%	0.2%	61.
Travel	9,926	2,606	41	7,279	26.3%	0.4%	26.
Capital Outlay	250,399	202,198	29,172	19,029	80.8%	11.7%	92.
Total Water Supply	**17,617,143**	**7,601,698**	**4,555,605**	**5,459,840**	**43.1%**	**25.9%**	**69.**
Reserves							
Reserves	$ 64,084,075	$ -	$ -	$ 64,084,075	0.00%	0.00%	0.0
Total Reserves	**64,084,075**			**64,084,075**	**0.00%**	**0.00%**	**0.0**
Debt Service							
Debt Service	$ 42,136,957	$ 42,136,954	$ -	$ 3	100.0%	0.0%	100.
Total Debt Service	**42,136,957**	**42,136,954**		**3**	**70.0%**	**0.0%**	**70.**
Grand Total	**$ 622,164,496**	**$ 232,798,275**	**$ 126,342,733**	**$ 263,023,489**	**37.4%**	**20.3%**	**57.**

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INDIVIDUAL PERMITS ISSUED BY
AUTHORITY DELEGATED TO EXECUTIVE DIRECTOR
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Attachment: IP Issued by ED May 2013 (1312 : Executive Director's Report)

BROWARD COUNTY

1. RIVIERA ISLES MASTER ASSOCIATION INC
RIVIERA ISLES MASTER ASSOCIATION INC
SEC 32,33 TWP 51S RGE 40E

APPL. NO. 061030-27
PERMIT NO. 06-02941-W

ACREAGE: 90.43
LAND USE: LANDSCAPE

PERMIT TYPE: WATER USE MODIFICATION/RENEWAL

WATER SOURCE: ON-SITE LAKES

ALLOCATION: 15.1 MILLION GALLONS PER MONTH
LAST DATE FOR AGENCY ACTION: JULY 1, 2013

Attachment: IP Issued by ED May 2013 (1312 : Executive Director's Report)

COLLIER COUNTY

1. ROYAL POINCIANA GOLF CLUB
ROYAL POINCIANA GOLF CLUB
SEC 14,23 TWP 49S RGE 25E

APPL. NO. 071207-12
PERMIT NO. 11-00045-W
ACREAGE: 162.00
LAND USE: LANDSCAPE

PERMIT TYPE: WATER USE MODIFICATION
WATER SOURCE: ON-SITE LAKES, LOWER TAMIAMI AND LOWER HAWTHORN AQUIFERS
ALLOCATION: 54.81 MILLION GALLONS PER MONTH
LAST DATE FOR AGENCY ACTION: MAY 26, 2013

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2. THE LANDINGS AT BEARS PAW
HEADWATERS DEVELOPMENT LLLP
SEC 35 TWP 49S RGE 25E

APPL. NO. 120711-2
PERMIT NO. 11-03455-P
ACREAGE: 9.83
LAND USE: RESIDENTIAL

PERMIT TYPE: ENVIRONMENTAL RESOURCE (NEW CONSTRUCTION/OPERATION)
RECEIVING BODY: GOLDEN GATE CANAL VIA THE SURFACE WATER MANAGEMENT SYSTEM
LAST DATE FOR AGENCY ACTION: MAY 27, 2013

Attachment: IP Issued by ED May 2013 (1312 : Executive Director's Report)

HENDRY COUNTY

1. JO MAR EL GROVE
   JOHN GIDDENS
   SEC 29,30 TWP 45S RGE 29E

APPL. NO. 051104-2
PERMIT NO. 26-00227-W

ACREAGE: 130.00
LAND USE: AGRICULTURAL

PERMIT TYPE: WATER USE MODIFICATION/RENEWAL

WATER SOURCE: SANDSTONE AND LOWER TAMIAMI AQUIFERS

ALLOCATION: 28.8 MILLION GALLONS PER MONTH
LAST DATE FOR AGENCY ACTION: JULY 10, 2013

Attachment: IP Issued by ED May 2013 (1312 : Executive Director's Report)

HIGHLANDS COUNTY

1. KENNEDY FAMILY HOLDINGS
KENNEDY FAMILY REAL ESTATE HOLDINGS LLC
SEC 36,31 TWP 36,36S RGE 32,33E

APPL. NO. 130314-1
PERMIT NO. 28-00686-W
ACREAGE: 530.00
LAND USE: AGRICULTURAL

PERMIT TYPE: WATER USE PROPOSED
WATER SOURCE: SURFICIAL AND UPPER FLORIDAN AQUIFERS
ALLOCATION: 107.1 MILLION GALLONS PER MONTH
LAST DATE FOR AGENCY ACTION: JULY 18, 2013

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2. PATS PRIDE GROVE
KT AND MARY JOHN
SEC 20 TWP 37S RGE 31E

APPL. NO. 080620-15
PERMIT NO. 28-00462-W
ACREAGE: 120.00
LAND USE: AGRICULTURAL

PERMIT TYPE: WATER USE RENEWAL
WATER SOURCE: UPPER FLORIDAN AQUIFER
ALLOCATION: 19.3 MILLION GALLONS PER MONTH
LAST DATE FOR AGENCY ACTION: JULY 11, 2013

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3. SEBRING FARMS PEAT MINE DEWATERING
STAR FARMS CORP
SEC 1,5-7,12,31-33 TWP 34,35S RGE 29,30E

APPL. NO. 130304-3
PERMIT NO. 28-00689-W
ACREAGE: 337.00
LAND USE: DEWATERING

PERMIT TYPE: WATER USE PROPOSED
WATER SOURCE: WATER TABLE AQUIFER
ALLOCATION: NOT REQUIRED
LAST DATE FOR AGENCY ACTION: JUNE 23, 2013

Attachment: IP Issued by ED May 2013 (1312 : Executive Director's Report)

LEE COUNTY

1. COLONIAL COMMERCE CENTER
COLONIAL FRONTAGE LLC
SEC 32 TWP 45S RGE 25E

APPL. NO. 080618-9
PERMIT NO. 36-07971-P
ACREAGE: 2.51
LAND USE: COMMERCIAL

PERMIT TYPE: ENVIRONMENTAL RESOURCE (NEW CONSTRUCTION/OPERATION)
RECEIVING BODY: COLONIAL BOULEVARD ROADSIDE SWALE
LAST DATE FOR AGENCY ACTION: JULY 8, 2013

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2. ESPERANZA AT PASEO - PHASE TWO AND THREE
STOCK DEVELOPMENT LLC
SEC 09 TWP 45S RGE 25E

APPL. NO. 130410-4
PERMIT NO. 36-07972-W
ACREAGE: 1.00
LAND USE: DEWATERING

PERMIT TYPE: WATER USE PROPOSED
WATER SOURCE: WATER TABLE AQUIFER
ALLOCATION: NOT REQUIRED
LAST DATE FOR AGENCY ACTION: JULY 9, 2013

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3. FORT MYERS COUNTRY CLUB
CITY OF FORT MYERS
SEC 27,35 TWP 44S RGE 24E

APPL. NO. 130304-21
PERMIT NO. 36-00019-W
ACREAGE: 125.00
LAND USE: GOLF COURSE
LANDSCAPE

PERMIT TYPE: WATER USE RENEWAL
WATER SOURCE: ON-SITE LAKES AND LOWER HAWTHORN AQUIFER
ALLOCATION: 21.57 MILLION GALLONS PER MONTH
LAST DATE FOR AGENCY ACTION: JUNE 2, 2013

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4. FPL FORT MYERS PLANT - ADDITION OF MANATEE WELL
FLORIDA POWER AND LIGHT COMPANY
SEC 25,26,35,36 TWP 43S RGE 25E

APPL. NO. 130426-4
PERMIT NO. 36-00007-W
ACREAGE: 1.00
LAND USE: INDUSTRIAL

PERMIT TYPE: WATER USE MODIFICATION
WATER SOURCE: C-43, SANDSTONE AND SUWANNEE AQUIFERS
ALLOCATION: 19851.19 MILLION GALLONS PER MONTH
LAST DATE FOR AGENCY ACTION: JULY 25, 2013

Attachment: IP Issued by ED May 2013 (1312 : Executive Director's Report)

5. SWFIA ACCESS TO I-75 DEWATERING
PRINCE CONTRACTING LLC
SEC 2,3,10,11,27,34,35 TWP 45,46S RGE 25E

APPL. NO. 130305-11
PERMIT NO. 36-07973-W
ACREAGE: 1.00
LAND USE: DEWATERING

PERMIT TYPE: WATER USE EXISTING/PREVIOUSLY PERMITTED
WATER SOURCE: WATER TABLE AQUIFER
ALLOCATION: NOT REQUIRED
LAST DATE FOR AGENCY ACTION: JUNE 3, 2013

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6. THE PRESERVE AT CORKSCREW
RCS CORKSCREW LAND LLC
SEC 20,29 TWP 46S RGE 26E

APPL. NO. 130108-16
PERMIT NO. 36-07551-W
ACREAGE: 111.34
LAND USE: LANDSCAPE

PERMIT TYPE: WATER USE MODIFICATION
WATER SOURCE: MID-HAWTHORN AQUIFER AND ON-SITE LAKES
ALLOCATION: 19.02 MILLION GALLONS PER MONTH
LAST DATE FOR AGENCY ACTION: MAY 26, 2013

Attachment: IP Issued by ED May 2013 (1312 : Executive Director's Report)

MARTIN COUNTY

1. SOUTH FLORIDA GRASSING
   SOUTH FLORIDA GRASSING INC
   SEC 25 TWP 39S RGE 41E

APPL. NO. 130214-12
PERMIT NO. 43-00021-W

ACREAGE: 305.00
LAND USE: AGRICULTURAL

PERMIT TYPE: WATER USE RENEWAL

WATER SOURCE: SURFICIAL AQUIFER

ALLOCATION: 52.96 MILLION GALLONS PER MONTH
LAST DATE FOR AGENCY ACTION: JUNE 23, 2013

Attachment: IP Issued by ED May 2013 (1312 : Executive Director's Report)

MIAMI-DADE COUNTY

1. HIGH HOPE NURSERY
   HIGH HOPE NURSERY INC
   SEC 7,12,18,30 TWP 56,57S RGE 39,40E

APPL. NO. 130117-6
PERMIT NO. 13-04030-W

ACREAGE: 290.00
LAND USE: AGRICULTURAL

PERMIT TYPE: WATER USE MODIFICATION/RENEWAL

WATER SOURCE: BISCAYNE AQUIFER

ALLOCATION: 29.9 MILLION GALLONS PER MONTH
LAST DATE FOR AGENCY ACTION: JULY 2, 2013

Attachment: IP Issued by ED May 2013 (1312 : Executive Director's Report)

OKEECHOBEE COUNTY

1. ENTRY GROVE
   JOHN E IV AND JUSTIN ENTRY
   SEC 19 TWP 35S RGE 34E

APPL. NO. 130227-21
PERMIT NO. 47-01129-W

ACREAGE: 316.40
LAND USE: AGRICULTURAL

PERMIT TYPE: WATER USE EXPIRED/PREVIOUSLY PERMITTED

WATER SOURCE: FLORIDAN AQUIFER

ALLOCATION: 46.43 MILLION GALLONS PER MONTH
LAST DATE FOR AGENCY ACTION: JUNE 24, 2013

Attachment: IP Issued by ED May 2013 (1312 : Executive Director's Report)

OSCEOLA COUNTY

1. ALTMAN FISHERY
HICKORY TREE LLC
SEC 29 TWP 26S RGE 29E

APPL. NO. 130312-18
PERMIT NO. 49-02285-W
ACREAGE: 35.90
LAND USE: DEWATERING

PERMIT TYPE: WATER USE PROPOSED
WATER SOURCE: WATER TABLE AQUIFER
ALLOCATION: NOT REQUIRED
LAST DATE FOR AGENCY ACTION: JUNE 10, 2013

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2. FANNY BASS AND KENANSVILLE GROVES
CIRCLE Y GROVES LLC
SEC 2,11,15 TWP 27,30S RGE 30,33E

APPL. NO. 120426-7
PERMIT NO. 49-02273-W
ACREAGE: 149.00
LAND USE: AGRICULTURAL

PERMIT TYPE: WATER USE EXISTING/PREVIOUSLY PERMITTED
WATER SOURCE: UPPER FLORIDAN AQUIFER
ALLOCATION: 24.63 MILLION GALLONS PER MONTH
LAST DATE FOR AGENCY ACTION: JUNE 24, 2013

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3. HICKORY TREE GROVE
CIRCLE Y GROVES LLC
SEC 20 TWP 26S RGE 31E

APPL. NO. 120228-14
PERMIT NO. 49-02277-W
ACREAGE: 94.00
LAND USE: AGRICULTURAL

PERMIT TYPE: WATER USE EXPIRED/PREVIOUSLY PERMITTED
WATER SOURCE: UPPER FLORIDAN AQUIFER
ALLOCATION: 15.48 MILLION GALLONS PER MONTH
LAST DATE FOR AGENCY ACTION: JUNE 3, 2013

Attachment: IP Issued by ED May 2013 (1312 : Executive Director's Report)

PALM BEACH COUNTY

1. HATCHER RESTORATION PROJECT
PALM BEACH COUNTY BOARD OF COUNTY COMMISSIONERS
SEC 6 TWP 41S RGE 42E

APPL. NO. 130312-20
PERMIT NO. 50-09766-P
ACREAGE: 230.61
LAND USE: ENVIRONMENTAL RESTORATION

PERMIT TYPE: ENVIRONMENTAL RESOURCE (CONSTRUCTION/OPERATION MODIFICATION INCLUDES CONSERVATION EASEMENT TO THE DISTRICT)
RECEIVING BODY: SIRWCD CANAL 2 SYSTEM AND CYPRESS CREEK NATURAL AREA
LAST DATE FOR AGENCY ACTION: MAY 11, 2013

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2. PALM BEACH MALL
PALM BEACH MALL
SEC 17,18,19 TWP 43S RGE 43E

APPL. NO. 130503-9
PERMIT NO. 50-10048-W
ACREAGE: 13.00
LAND USE: DEWATERING

PERMIT TYPE: WATER USE MODIFICATION
WATER SOURCE: WATER TABLE AQUIFER
ALLOCATION: NOT REQUIRED
LAST DATE FOR AGENCY ACTION: AUGUST 1, 2013

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3. VILLAGE OF GOLF
VILLAGE OF GOLF
SEC 1,31,35,36 TWP 45,46S RGE 42,43E

APPL. NO. 130227-3
PERMIT NO. 50-00612-W
ACREAGE: N/A
LAND USE: PUBLIC WATER SUPPLY

PERMIT TYPE: WATER USE MODIFICATION/RENEWAL
WATER SOURCE: SURFICIAL AQUIFER
ALLOCATION: 28.26 MILLION GALLONS PER MONTH
LAST DATE FOR AGENCY ACTION: MAY 28, 2013

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4. VILLAGGIO ISLES PUD REPLAT
INVESTORS ASSET ACQUISITION LLC
SEC 16 TWP 46S RGE 42E

APPL. NO. 130222-17
PERMIT NO. 50-07775-P
ACREAGE: 116.88
LAND USE: RESIDENTIAL COMMERCIAL

PERMIT TYPE: ENVIRONMENTAL RESOURCE (CONSTRUCTION/OPERATION MODIFICATION)
RECEIVING BODY: LWDD L-33 CANAL
LAST DATE FOR AGENCY ACTION: JULY 5, 2013

Attachment: IP Issued by ED May 2013 (1312 : Executive Director's Report)

POLK COUNTY

1. CREEK RANCH
THE EXPOSITION COMPANY
SEC 13,15,18,22,24 TWP 28S RGE 28,29E

APPL. NO. 111129-7
PERMIT NO. 53-00290-W

ACREAGE: 270.00
LAND USE: AGRICULTURAL

PERMIT TYPE: WATER USE EXPIRED/PREVIOUSLY PERMITTED

WATER SOURCE: UPPER FLORIDAN AQUIFER

ALLOCATION: 16.92 MILLION GALLONS PER MONTH
LAST DATE FOR AGENCY ACTION: JULY 1, 2013

Attachment: IP Issued by ED May 2013 (1312 : Executive Director's Report)

ST LUCIE COUNTY

1. HARBOUR RIDGE IRRIGATION
HARBOUR RIDGE PROPERTY OWNERS ASSOCIATION INC
SEC 22,23,25-27,35,36 TWP 37S RGE 40E

APPL. NO. 121207-1
PERMIT NO. 56-00450-W

ACREAGE: 335.93
LAND USE: GOLF COURSE
LANDSCAPE

PERMIT TYPE: WATER USE MODIFICATION/RENEWAL
WATER SOURCE: SURFICIAL AQUIFER, C-23 AND ON-SITE LAKES
ALLOCATION: 58.81 MILLION GALLONS PER MONTH
LAST DATE FOR AGENCY ACTION: JULY 14, 2013

Attachment: IP Issued by ED May 2013 (1312 : Executive Director's Report)