




FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION

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FROM: Drew Bartlett 
Deputy Secretary, Water Policy and Ecosystem Restoration

SUBJECT: Guidance Memo re: Interim Consumptive Use Permitting (CUP) within the Central Florida Water Initiative Area.

DATE: December 13, 2013

The Central Florida Water Initiative (CFWI) has made significant progress in our collaborative effort to plan for the future water supply needs of Central Florida while sustaining our natural resources. The completion of the regional groundwater model, the determination of the sustainable yield of water supply from the upper Florida aquifer, and the release of the draft of the first joint Regional Water Supply Plan for the CFWI area are significant milestones in achieving the goals of the Initiative. As summarized in the draft regional water supply plan, an additional 250 MGD of water will be needed by 2035 to meet demand and protect natural resources.

By the end of 2014, the CFWI Solutions Team will use the work accomplished to date as the foundation to select specific projects and develop strategies to provide the additional water needed for users and for resource recovery. In the interim, the water management districts must continue to perform their statutory responsibility to review and process consumptive use permit applications under applicable statutory and rule provisions. The purpose of this memo is to provide guidance to the districts in implementing the CUP program during this interim time period. This guidance is effective immediately.

Coordination on Pending Applications

There is an immediate need for coordination and the three water management districts are directed to closely coordinate agency action on consumptive use permit applications within the Central Florida Area, and provide transparency in the application process for water users and other stakeholders in the region. The WMDs should generate monthly reports of consumptive use program data for consideration by the CFWI Regulatory Team, and to make this information available to the public on the CFWI website (www.cfwewater.com). The reports should include information on pending applications and anticipated renewal applications, including location and requested withdrawal quantities and permit terms.

Permit Duration

As part of the CFWI, substantial technical work has been generated concerning groundwater availability in the Central Florida region. This information represents the best available technical information concerning current and projected water resource conditions. Of particular interest in this regard and as documented through field work, adverse impacts to wetlands and other water resources are currently occurring in several areas in the CFWI. Some impacts are the result of multiple factors, including groundwater withdrawals.

The districts are expected to utilize this information during review of applications for consumptive use permits and pay particular attention to the reasonable assurances provided that the conditions for permit issuance will be met for the duration of the permit in accordance with Section 373.236, F.S. While Section 373.236, F. S. indicates permits shall be granted for 20 years, this statute also indicates the potential for shorter permit durations which reflect the period for which reasonable assurances can be provided. Given the circumstances existing in the CFWI, a case by case analysis of whether or not a shorter permit duration should be issued is warranted, and this decision should be carefully analyzed by the district.

Water Conservation

While significant achievements have been made in water conservation and the use of reclaimed water in the CFWI area, continued improvement is required, particularly given that use is approaching, or in some areas, has exceeded, the sustainable yield of the upper Floridan aquifer. The districts should continue to require applicants to demonstrate, through careful compliance with existing district rules for water use efficiency and conservation plans, that the proposed use is reasonable-beneficial.

In addition, the districts are directed to:

- (1) Work with other CFWI participants to prepare a "menu" of water conservation options to be posted on the CFWI website and made available to permit applicants;
- (2) Work with the top 5-10 largest utility customers for the purpose of assessing current water use and identifying opportunities to enhance conservation programs and use efficiency, and
- (3) Annually perform a random survey of citizens in the CFWI area for the purpose of determining awareness of water supply issues and the need for conservation in the region in order to measure the success of the Districts' water conservation education program.

To further promote public education and awareness related to the need for water conservation, the Districts shall include the water conservation Limiting Condition provided in the section below on permits issued in the CFWI area.

The Districts shall report the status and progress of the above actions to the Department by June 1 and December 1, 2014.

Permit Application Documentation and Permit Conditions

It is important for applicants who receive permits during this interim period to be put on notice that they are located within the CFWI area and that the solutions and strategies that are developed may

affect permitted water users in the future. Therefore, the districts should include the following language in the staff documentation (technical staff report or abstract) prepared for each application, and include the following Limiting Conditions on permits issued:

Staff Report or Abstract Language:

This application satisfies existing conditions for permit issuance because (*insert reasoning regarding: water resources, existing legal users, demand, etc.*)

The recommended permit duration is commensurate with the applicant's ability to satisfy conditions of permit issuance. (*Insert explanation as needed.*)

The proposed water use is located within the area of the Central Florida Water Initiative (CFWI). The CFWI is a collaborative regional water supply endeavor to protect, conserve, and restore water resources in the area by working to accomplish the goals presented in the Central Florida Water Initiative Guidance Document. These goals include crafting long-term water supply solutions for the Central Florida region. The CFWI effort may also result in specific regulatory requirements. While the scope and content of these regulatory requirements are unknown at this time, it is possible they may include requirements that are related to the permittee's relative contribution to the water resource impact being addressed, the timing of permit issuance compared to other existing legal users, and/or include other considerations identified by the CFWI Solutions Planning and Regulatory Teams. Therefore, this permit includes Limiting Condition ## that provides specific notification that the permit may be modified during the term of the permit to address unanticipated harm or impacts to existing legal users that is occurring or is projected to occur from the permittee's authorized withdrawal over the permit duration.

Since this application is located within the CFWI area, it is necessary for the applicant to consider implementing the heightened water conservation requirements defined in Limiting Condition ##.

The applicant is advised to carefully consider its infrastructure investments in light of the on-going Central Florida Water Initiative.

Permit Limiting Conditions:

##. Notice included in new permits; modifications with increases in allocation or duration, except permit duration extensions associated with conservation achieved pursuant to the Applicant's Handbook for Water Use Permit Applications criterion [2.3.2. F.1.c. and Rule 40E-2.331(4)(a)2.b. (SFWMD), 1.4.3.3.1(c) (SJRWMD), and 2.4.8.7 (SWFWMD), when effective] ; and / or renewals beginning (*Insert Date of Guidance Memo*):

This project is located in the Central Florida Water Initiative (CFWI) area, an area with on-going impacts to water resources which are being addressed by the CFWI. If the District determines that adverse impacts to water resources or existing legal users are occurring or are projected to occur because of the Permittee's authorized withdrawals over the permit duration, the District, upon reasonable notice to the permittee and including a statement of facts upon which the District based its determination, may modify quantities permitted or other conditions of the permit, as appropriate, to address the impact, but only after an opportunity for the permittee to resolve or mitigate the impact or to request a hearing. Such modification, if any, will consider such factors as the permittee's relative contribution to the water resource impact being addressed due to groundwater withdrawals, the timing of this permit issuance compared to presently existing legal use of water, and other considerations identified by the CFWI Solutions Planning and Regulatory Teams. Modifications may include mitigation of impacts and / or reconsideration of allocations or requirements to timely implement required actions that are consistent with the long-term, regional water supply solutions as implemented by rules. Such actions may include the development of alternative water supplies, the implementation of water resource and / or water supply development projects, the application of impact offsets or substitution credits, operating plans, heightened water conservation or other appropriate actions. Nothing in this condition is intended to abrogate the rights of the Governing Board or of any other person under Section 373.233, Fla. Stat.

##. The Central Florida Water Initiative documented existing water resource environmental impacts within its boundaries. This Initiative remains underway and is, in part, crafting long-term water supply solutions for the region. As a component of immediate, interim measures the permittee is encouraged to participate in the District's on-going, heightened water conservation public education program. Given the permittee's use class, opportunities may include such activities as participation in water conservation public service announcements, demonstrations of irrigation efficiency at community gardens, posting water conservation information or links on the permittee's website. Please contact (INSERT contact information) to discuss opportunities for participation in this important District effort.

If you have any questions regarding this guidance memo, please contact Tom Beck, Director of the Office of Water Policy, at Tom.Beck@dep.state.fl.us or 850/ 245-3643.

HTV/DB/tb

cc: Tom Beck, Ph.D., Director, Office of Water Policy, FDEP