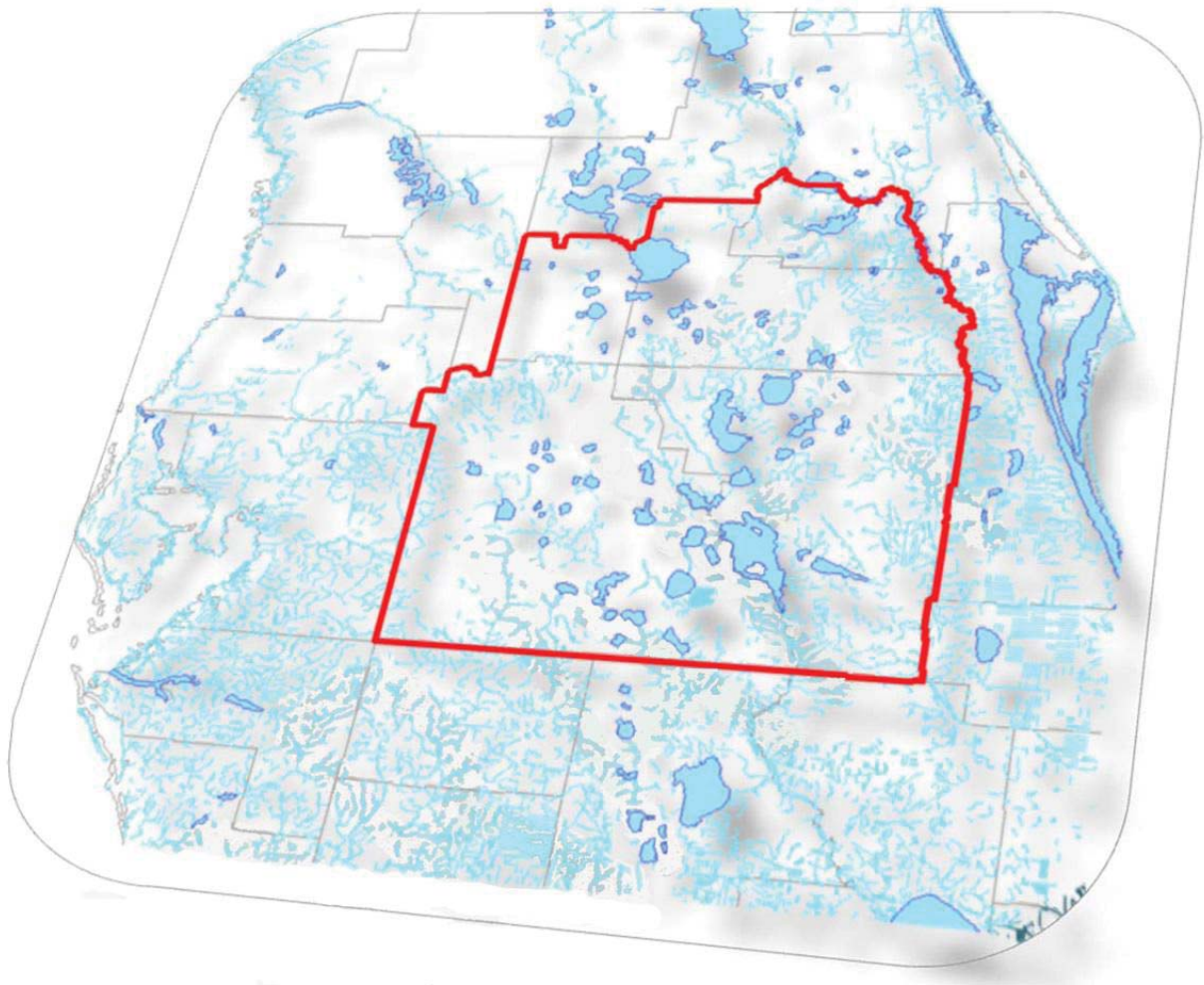


Standard Peer Review Process for Minimum Flows and Levels and Water Reservations within the Central Florida Water Initiative Area



Central Florida Water Initiative
Minimum Flows and Levels and Reservations Team

March 2014

Table of Contents

Standard Peer Review Process for Minimum Flows and Levels and Water Reservations within the Central Florida Water Initiative Area	2
Introduction	2
Table 1. General overview and sis components approved by the CFWI Steering Committee	4
Voluntary vs. Requested Peer Review Component	6
Reviewer Selection Component	7
Public Involvement Component.....	8
Scope of Work Component.....	9
Reviewer Independence and Rerporting Requirements Component.....	10
Governing Board Presentations Component.....	10
Appendix 1: Florida Statutes Pertaining to Peer Review of MFLs – Definitions	12
Appendix 2: Florida Statutes Pertaining to Peer Review of MFLs – Minimum Flows and Levels.....	13
Appendix 3: Rules of the Department of Environmantal Protections Pertaining to Peer Review of MFLs and Reservations.....	16
Appendix 4: Rules of the Southwest Florida Water Management District Pertaining to Peer Review of MFLs.....	18
Appendix 5: Rules of the South Florida Water Management District Pertaining to Peer Review of MFLs.....	20
Appendix 6: South Florida Water Management District Conflict of Interest Statement Used for Peer Review	21

Standard Peer Review Process for Minimum Flows and Levels and Water Reservations within the Central Florida Water Initiative Area

Introduction

This document outlines a standard process for ensuring consistent peer review of proposed minimum flows and levels (MFLs) and Water Reservations (reservations) by the South Florida, Southwest Florida and St. Johns River Water Management Districts in the Central Florida Water Initiative (CFWI) area. The process was approved by the CFWI Steering Committee on May 18, 2012, following presentation of options addressing six process components that were developed by the CFWI MFLs and Reservations Team. Table 1 provides a summary of the six process components approved by the Steering Committee along with some general information on the peer review process. The standard peer review process approved for the CFWI was developed to comply with Sunshine Law considerations.

The legal definition for independent scientific peer review in Florida can be found in Appendix 1. Legal requirements concerning independent scientific peer-reviews related to MFLs and Water Reservations are included in Appendices 2 and 3. Appendices 4 and 5 include excerpts from Southwest and South Florida Water Management District rules that specifically address independent scientific peer review.

Findings of peer review panels are summarized in a final report which a district governing board or the Department of Environmental Protection must give "significant weight" when establishing MFLs (Section 373.042(5)(b), F.S.). Peer review reports associated with proposed water reservations are also considered by the districts or department when establishing reservations, although state law does not provide any directives regarding use of this information.

The three water management districts involved in the CFWI have previously implemented various approaches to address the legal and regulatory requirements for peer review of MFLs or reservations within their respective boundaries. Each District currently uses a voluntary process for review of proposed MFLs or reservations, although peer-review requested by a substantially

affected person has been completed in at least one District. The process outlined in this memorandum is expected to replace existing peer review approaches use by the districts in the CFWI area.

Table 1. General overview and six components approved by the CFWI Steering Committee for peer review of MFLs and water reservations proposed for the CFWI area.

General Overview and Process Component	Summary Information
General Overview	<p>As describe in Section 373.019, F.S., “Independent scientific peer review’ means the review of scientific data, theories, and methodologies by a panel of independent, recognized experts in the fields of hydrology, hydrogeology, limnology and other scientific disciplines relevant to the matters being reviewed under s. 373.042.”</p> <p>Peer review is utilized for MFLs and reservations per the provisions of Sections 373.042(2, 5 and 6), F.S. or Rules 62-40.473(9, 10) and 62-40.474(4) F.A.C.</p> <p>All scientific and technical data, methodologies, and models, including all scientific and technical assumptions employed by each model used to establish a minimum flow or level is subject to independent scientific peer review.</p> <p>Feedback from the independent peer review panel is taken into consideration to validate criteria, to determine if additional studies are needed or revise proposed MFLs or reservations.</p> <p>Findings of the peer review panel are summarized in a final report which is to be given "significant weight" when establishing MFLs (Section 373.042(5)(b), F.S.).</p>
Voluntary vs. Requested Peer Review Component	<p>Conduct independent scientific peer review in response to a request from a substantially affected person, unless it is determined that the proposed MFLs or reservation should be voluntarily reviewed. Guidance for consistency regarding when peer review should be voluntarily undertaken is provided in Rules 62-40.473(10) and 62-40.474(4), F.A.C.</p>
Reviewer Selection Component	<p>Involve stakeholders in selection of peer review panelists. If peer review is requested, reviewer selection procedures are conducted in accordance with Section 373.042(5), Florida Statutes. If peer review is undertaken voluntarily by decision of the department or district governing board, panelists are selected by the district with input from stakeholders.</p> <p>For both approaches, reviewers are identified and selected by district staff with stakeholder input based on: pre-qualified lists of reviewers generated by the districts; recommendations of previous peer reviewers; and review of university departmental faculty listings and other well-known experts in fields that are relevant to the material, tools, and technical evaluations proposed.</p> <p>Individuals or firms that do not have a financial or professional “conflict of interest” with each district requesting the peer review may be used for peer review.</p> <p>Depending on budgetary constraints and specific MFLs or reservation attributes, three or more reviewers with expertise representing each major subject area relevant to the evaluations (<i>e.g.</i>, biology, ecology, hydrology, modeling) may be selected.</p> <p>Potential reviewers may be approached to determine availability and willingness to serve as peer-review panel members and/or chair.</p>

General Overview and Process Component	Summary Information
Public Involvement Component	<p>Web page used to distribute information to stakeholders and provide opportunities for soliciting public input/comment.</p> <p>A public workshop or teleconference is to be held at the beginning of the process and also prior to completion of the final peer-review report. At least one of the events will be a public workshop. Both workshops or the single workshop and teleconference will include a public comment period.</p> <p>Publicly noticed teleconference meetings would also occur to allow collaboration between panel members, each district staff requesting the peer review and interested stakeholders.</p> <p>Governing Board meetings, public workshops and direct communications or correspondence with district representatives during rule development and rulemaking processes associated with MFLs or reservations provide additional opportunities for public input</p>
Scope of Work Component	<p>Use a standard scope of work for services provided by peer review panelists. The scope of work for each panelist would provide for:</p> <ul style="list-style-type: none"> a) review of the district's draft technical report on proposed MFLs or reservations; b) review, as appropriate, of other materials relating to the concepts, methods, and data presented in the draft district technical report; c) participation in multiple noticed workshops/meetings for the purpose of collaborating on the development of a written peer review report; d) participation in a publicly noticed district-facilitated field trip or trips to the water body that is under evaluation for peer review; e) development of a written peer review report that includes a review of the data, methodologies, and models outlined in the district's draft technical document, and includes suggestions, if any, for additional data or approaches that may be incorporated into the process of establishing MFLs or reservations; f) addressing public or stakeholder comments if relevant; g) identification of a panel chair and the assignment of additional tasks to the chair; h) presentation of panel findings, if necessary, to each Governing Board considering the adoption of the MFLs or reservations at issue; i) the rendering of any necessary follow-up services; and j) completion of a "conflict of interest" form or document.

General Overview and Process Component	Summary Information
Reviewer Independence and Reporting Requirements Component	<p>Reviewers are assembled as a panel and accordingly work together at all publicly noticed workshops and teleconference meetings to collaboratively develop a single peer-review report. Reviewers are encouraged to identify areas of agreement and disagreement among panel members in the peer review report. Reviewers are permitted to request additional information or clarification from district staff regarding any phase of the MFLs or reservations process.</p> <p>The collaborative process allows cross-fertilization of ideas and information among panelists and a more efficient review process by eliminating redundancy, and minimizing the potential for misunderstanding of methodological processes, data analyses, and stakeholder concerns/input.</p> <p>Panelists are expected to collectively participate with district staff and stakeholders in a publicly noticed, district-facilitated field trip or trips to the water body under evaluation.</p>
Governing Board Presentations Component	<p>Two presentations to each Governing Board considering adoption of the MFLs or reservation at issue would be completed. The first presentation would request approval for initiating the peer review process and the second would summarize panel findings and staff response to the peer review.</p> <p>Both presentations would be expected to be included on the Board's consent agenda, unless there is sufficient public interest to warrant formal presentations.</p> <p>If appropriate, the chair of the peer-review panel would present panel findings to each Governing Board requesting the peer review.</p>

Voluntary vs. Requested Peer Review Component

Peer review of MFLs and reservations may be conducted on a voluntary basis by decision of the water management districts or Department of Environmental Protection, or in response to a request from a substantially affected person. When conducted voluntarily, the expenses associated with peer review are incurred solely by the district. In the case of a requested peer review, State Law indicates the cost of the review shall be borne equally by the district and each party requesting the peer review, to the extent economically feasible. Florida Statutes also dictate specific procedures and schedules for requested peer reviews (see Appendix 2).

The standard process for peer review in the CFWI area will involve use of requested peer review in many cases, with voluntary peer review used for specific instances. Minimum flows and levels or reservations based on previously peer-reviewed methodologies and not expected to be particularly

controversial or complex are not necessarily expected to be subjected to voluntary peer review. In contrast, voluntary peer review is likely to be implemented for cases when the districts apply new methodologies for development of proposed MFLs or reservations, or when the proposed MFLs, reservations, or the water bodies for which they are developed incorporate or exhibit unique scientific or resource-management characteristics or are expected to be especially controversial to interested stakeholders. The State Water Resource Implementation Rule provides guidance to the districts concerning a consistent approach for determining when to subject proposed MFLs or reservations to voluntary peer review (see Appendix 3). Provisions of State Law addressing requested peer review would, of course, be applicable in the instances of requested peer review.

Reviewer Selection Component

The standard process for selection of panelists for peer reviews associated with the CFWI area involves stakeholder input, regardless of whether the review is requested or voluntarily implemented. If peer review is requested by a substantially affected person prior to the establishment of a minimum flow or level and prior to the filing of any petitions for administrative hearing related to the minimum flow or level, reviewer selection procedures are directed by State Law. Section 373.042(5)(b), F.S. requires selection of the peer review panel within 60 days of the point of initiation of peer review by agreement of the Department of Environmental Protection or district governing board and the person or persons requesting the peer review. If the panel is not selected within the 60-day period, the time limitation may be waived upon the agreement of all parties. If no waiver occurs, the department or governing board may proceed to select the peer review panel. If peer review is undertaken voluntarily by decision of the department or district governing board, panelists would be selected by the district with input from stakeholders.

Reviewer selection for requested or voluntary peer reviews is expected to be based on: pre-qualified lists of reviewers generated by the districts; recommendations of previous peer reviewers; and review of university departmental faculty listings and other well-known experts in fields that are relevant to the material, tools, and technical evaluations proposed. Depending on budgetary constraints and individual peer-review needs, three or more reviewers with expertise collectively representing all the major subject areas relevant to the evaluations (*e.g.*, biology, ecology, hydrology, modeling) are recommended. Similarly, identification of a peer-review panel

chair tasked with additional responsibilities beyond those assigned to other panelists is encouraged.

Both approaches to reviewer selection require use of technical services of individuals or firms who do not have a financial or professional “conflict of interest” with each district requesting the peer review. Use of individuals without a conflict of interest for peer-review purposes is seen as a means to assure reviewer independence and promote the acquisition of unbiased comment and review on proposed MFLs and reservations. Appendix 6 provides an example of a document used by the South Florida Water Management District for evaluating potential conflicts of interest that may exist between the District and potential peer-review panelists.

Public Involvement Component

The water management districts and CFWI Steering Committee acknowledge that peer review of MFLs and reservations should be conducted in accordance with Florida’s Government-in-the-Sunshine Law, which currently establishes “a basic right of access to most meetings of boards, commissions and other governing bodies of state and local governmental agencies or authorities.”¹ The standard peer review process for the CFWI addresses public involvement in the peer review of MFLs and water reservations through development of a district web page or pages for distribution of peer-review information to interested stakeholders, the required hosting of district-facilitated public workshops or teleconferences, and publicly noticed teleconference meetings of peer-review panelists that incorporate opportunities for public input. The public involvement component of the standard process requires that at least one public workshop will be held at an appropriate meeting location. The need for public workshops or teleconferences held at the beginning of the peer-review process and before completion of the panelists’ final report is also addressed.

Similarly, the need for multiple, publicly-noticed teleconferences allowing panel interaction in accordance with the Sunshine Law requirements is addressed in the standard peer review process. The water management districts and the CFWI Steering Committee note that in addition to the opportunities for public input available during a peer-review process, comment on proposed MFLs or reservations may be provided through publicly noticed components of the rulemaking processes.

¹ Government in the Sunshine web page of the Office of the Attorney General of Florida (<http://www.myflsunshine.com/sun.nsf/pages/Law>), accessed on January 25, 2012.

These additional opportunities for public input include Governing Board meeting discussions, rule development public workshops, and direct correspondence or other communication with district representatives.

Scope of Work Component

The standard process for peer review of MFLs and reservations in the CFWI area includes development of a scope of work addressing services to be provided by prospective peer-review panelists. The scope of work for each panelist should provide for or include the following tasks:

- review of the district's draft technical report on proposed MFLs or reservations;
- review, as appropriate, of other materials relating to the concepts and data presented in the draft district technical report;
- participation in multiple noticed workshops/meetings for the purpose of collaborating on the development of a written peer review report;
- participation in a publicly noticed, district-facilitated field trip or trips to the water body that is under evaluation for peer review;
- development of a written peer review report that includes a review of the data, methodologies, and models outlined in the district's draft technical document, and includes suggestions, if any, for additional data or approaches that may be incorporated into the process of establishing MFLs or reservations;
- addressing public or stakeholder comments if relevant;
- identification of a panel chair and the assignment of additional tasks to the chair;
- presentation of panel findings, if necessary, to each Governing Board considering the adoption of the MFLs or reservations at issue;
- the rendering of any necessary follow-up services; and
- completion of a "conflict of interest" form or document.

These tasks are similar to those that have been successfully incorporated into scopes of work used previously by each of the water management districts participating in the CFWI.

Reviewer Independence and Reporting Requirements Component

The standard CFWI peer review process involves assembling the reviewers as a panel that works together only at publicly noticed workshops and teleconference meetings to collaboratively develop a single peer-review report. In developing the report, reviewers would, however, be encouraged to identify areas of agreement and disagreement among panel members. Reviewers are permitted to request additional information or clarification from district staff regarding any phase of the MFLs or reservations process. As part of the peer-review process, panelists would be expected to participate in a district-facilitated field trip or trips that would be publicly noticed and would involve participation by all panelists, district staff, and interested stakeholders. The standard process is intended to include sufficient flexibility to address logistical and liability challenges associated with providing stakeholder access to field sites.

The collaborative process incorporated into this peer-review component is expected to enhance the cross-fertilization of ideas and information among panelists during public meetings or teleconferences, while making the review process more efficient by eliminating redundancy and minimizing the potential for misunderstanding methodological processes, data analyses, and stakeholder concerns or other input.

Governing Board Presentations Component

The standard peer review process for the CFWI requires two review-related presentations to each Governing Board considering adoption of the MFLs or reservation at issue. The first would request approval for initiating the peer review process and the second would summarize panel findings and the staff response to the peer review. Both presentations would be expected to be included on the Board's consent agenda, unless there is sufficient public interest to warrant formal presentations. If deemed necessary, the chair of the peer-review panel would present panel findings to the Board. Implementation of this option would provide the Governing Board with information concerning the status of the MFLs or reservations development process and could also serve to identify a specific date for release of the district's technical report(s) on proposed MFLs or reservations to interested stakeholders. A presentation to the Board following completion of the peer-review process would serve to provide an additional update concerning the status of the MFLs or reservation

development process and support policy decisions regarding continuation of the MFLs or reservation rulemaking.

Appendix 1

Florida Statutes Pertaining to Peer Review of MFLs – Definitions

The 2013 Florida Statutes

Title XXVIII

NATURAL RESOURCES; CONSERVATION, RECLAMATION, AND USE

Chapter 373

WATER RESOURCES

373.019 Definitions.— When appearing in this chapter or in any rule, regulation, or order adopted pursuant thereto, the term:

(1) through (10) – Not shown

(11) “Independent scientific peer review” means the review of scientific data, theories, and methodologies by a panel of independent, recognized experts in the fields of hydrology, hydrogeology, limnology, and other scientific disciplines relevant to the matters being reviewed under s. 373.042.

(12) through (28) – Not shown

History.—s. 3, part I, ch. 72-299; s. 37, ch. 79-65; s. 1, ch. 80-259; s. 5, ch. 82-101; s. 6, ch. 89-279; s. 21, ch. 93-213; s. 15, ch. 94-122; s. 251, ch. 94-356; s. 1, ch. 96-339; s. 1, ch. 96-370; s. 2, ch. 97-160; s. 1, ch. 2005-291; s. 10, ch. 2010-205; s. 1, ch. 2012-150.

Appendix 2

Florida Statutes Pertaining to Peer Review of MFLs – Minimum Flows and Levels

The 2013 Florida Statutes

Title XXVIII

NATURAL RESOURCES; CONSERVATION, RECLAMATION, AND USE

Chapter 373

WATER RESOURCES

373.042 Minimum flows and levels.--

(1) – Not shown

(2) By November 15, 1997, and annually thereafter, each water management district shall submit to the department for review and approval a priority list and schedule for the establishment of minimum flows and levels for surface watercourses, aquifers, and surface waters within the district. The priority list and schedule shall identify those listed water bodies for which the district will voluntarily undertake independent scientific peer review; any reservations proposed by the district to be established pursuant to s. 373.223(4); and those listed water bodies that have the potential to be affected by withdrawals in an adjacent district for which the department's adoption of a reservation pursuant to s. 373.223(4) or a minimum flow or level pursuant to subsection (1) may be appropriate. By March 1, 2006, and annually thereafter, each water management district shall include its approved priority list and schedule in the consolidated annual report required by s. 373.036(7). The priority list shall be based upon the importance of the waters to the state or region and the existence of or potential for significant harm to the water resources or ecology of the state or region, and shall include those waters which are experiencing or may reasonably be expected to experience adverse impacts. Each water management district's priority list and schedule shall include all first magnitude springs, and all second magnitude springs within state or federally owned lands purchased for conservation purposes. The specific schedule for establishment of spring minimum flows and levels shall be commensurate with the existing or potential threat to spring flow from consumptive uses. Springs within the Suwannee River Water Management District, or second magnitude springs in other areas of the state, need not be included on the priority list if the water management district submits a report to the Department of Environmental

Protection demonstrating that adverse impacts are not now occurring nor are reasonably expected to occur from consumptive uses during the next 20 years. The priority list and schedule is not subject to any proceeding pursuant to chapter 120. Except as provided in subsection (3), the development of a priority list and compliance with the schedule for the establishment of minimum flows and levels pursuant to this subsection satisfies the requirements of subsection (1).

(3) through (4) – Not shown

(5)(a) Upon written request to the department or governing board by a substantially affected person, or by decision of the department or governing board, prior to the establishment of a minimum flow or level and prior to the filing of any petition for administrative hearing related to the minimum flow or level, all scientific or technical data, methodologies, and models, including all scientific and technical assumptions employed in each model, used to establish a minimum flow or level shall be subject to independent scientific peer review. Independent scientific peer review means review by a panel of independent, recognized experts in the fields of hydrology, hydrogeology, limnology, biology, and other scientific disciplines, to the extent relevant to the establishment of the minimum flow or level.

(b) If independent scientific peer review is requested, it shall be initiated at an appropriate point agreed upon by the department or governing board and the person or persons requesting the peer review. If no agreement is reached, the department or governing board shall determine the appropriate point at which to initiate peer review. The members of the peer review panel shall be selected within 60 days of the point of initiation by agreement of the department or governing board and the person or persons requesting the peer review. If the panel is not selected within the 60-day period, the time limitation may be waived upon the agreement of all parties. If no waiver occurs, the department or governing board may proceed to select the peer review panel. The cost of the peer review shall be borne equally by the district and each party requesting the peer review, to the extent economically feasible. The panel shall submit a final report to the governing board within 120 days after its selection unless the deadline is waived by agreement of all parties. Initiation of peer review pursuant to this paragraph shall toll any applicable deadline under chapter 120 or other law or district rule regarding permitting, rulemaking, or administrative hearings, until 60 days following submittal of the final report. Any such deadlines shall also be tolled for 60 days following withdrawal of the request or following agreement of the parties that peer review will no

longer be pursued. The department or the governing board shall give significant weight to the final report of the peer review panel when establishing the minimum flow or level.

(c) If the final data, methodologies, and models, including all scientific and technical assumptions employed in each model upon which a minimum flow or level is based, have undergone peer review pursuant to this subsection, by request or by decision of the department or governing board, no further peer review shall be required with respect to that minimum flow or level.

(d) No minimum flow or level adopted by rule or formally noticed for adoption on or before May 2, 1997, shall be subject to the peer review provided for in this subsection.

(6) If a petition for administrative hearing is filed under chapter 120 challenging the establishment of a minimum flow or level, the report of an independent scientific peer review conducted under subsection (4) is admissible as evidence in the final hearing, and the administrative law judge must render the order within 120 days after the filing of the petition. The time limit for rendering the order shall not be extended except by agreement of all the parties. To the extent that the parties agree to the findings of the peer review, they may stipulate that those findings be incorporated as findings of fact in the final order.

History.—s. 6, part I, ch. 72-299; s. 2, ch. 73-190; s. 2, ch. 96-339; s. 5, ch. 97-160; s. 52, ch. 2002-1; s. 1, ch. 2002-15; s. 6, ch. 2005-36; s. 1, ch. 2013-229.

Note.—Former s. 373.036(7).

Appendix 3

Rules of the Department of Environmental Protection Pertaining to Peer Review of MFLs and Reservations

CHAPTER 62-40, Florida Administrative Code WATER RESOURCE IMPLEMENTATION RULE

62-40.473 Minimum Flows and Levels.

(1) through (8) – Not shown

(9) A minimum flow and level priority list and schedule, meeting the requirements of Section 373.042(2), F.S. shall be submitted to the Department annually. At a minimum, the schedule shall include the minimum flows and levels planned for establishment in the next three years. The priority list shall also identify whether or not voluntary scientific peer review will be undertaken for those water bodies and the basis for the decision. The District shall identify any water bodies included on the list which may be affected by withdrawals occurring in other Districts.

(10) In determining whether to conduct voluntary independent scientific peer review of all scientific or technical data, methodologies, and models, including all scientific and technical assumptions employed in each model, used to establish a minimum flow or level pursuant to Section 373.042(4), F.S., the District shall consider:

(a) Whether or not the minimum flow or level is based on a previously peer-reviewed methodology;

(b) The level of complexity of the minimum flow and level;

(c) Whether or not the water body for which the minimum flow and level is being developed includes water resource characteristics that are substantially different than previously peer reviewed minimum flows or levels; and

(d) The degree of public concern regarding the minimum flow and level.

Rulemaking Authority 373.026(7), 373.036, 373.043, 373.171 FS. Law Implemented 373.023, 373.026, 373.036(1)(d), 373.042, 373.0421, 373.086, 373.103, 373.171, 373.175, 373.223, 373.246, 373.250, 373.413, 373.414, 373.416, 373.418, 373.451, 373.453, 373.703, 403.064, 403.0891 FS. History—New 5-5-81, Formerly 17-40.08, Amended 12-5-88, Formerly 17-40.080, 17-40.405, Formerly 17-40.473, Amended 7-20-95, 5-7-05, 5-6-13.

62-40.474 Reservations.

(1) through (3) – Not shown

(4) The District shall conduct an independent scientific peer review of all scientific or technical data, methodologies, and models, including all scientific and technical assumptions employed in each model, used to establish a reservation if the District determines such a review is needed. In determining whether to conduct an independent scientific peer review the District should include consideration of:

(a) Whether or not the reservation is based on a previously peer-reviewed methodology;

(b) The level of complexity of the reservation;

(c) Whether or not the water body for which the reservation is being developed includes water resource characteristics that are substantially different than previously peer reviewed reservations; and

(d) The degree of public concern regarding the reservation.

(5) – Not shown

Rulemaking Authority 373.026(7), 373.036, 373.043, 373.171 FS. Law Implemented 373.023, 373.026, 373.036, 373.042, 373.046, 373.103, 373.106, 373.171, 373.175, 373.223, 373.246, 373.418, 373.451, 373.453, 373.703, 403.0891 FS. History– New 5-7-06, Amended 5-6-13.

Appendix 4

Rules of the Southwest Florida Water Management District Pertaining to Peer Review of MFLs

CHAPTER 40D-8, Florida Administrative Code

WATER LEVELS AND RATES OF FLOW

40D-8.011 Policy and Purpose.

(1) through (4) – Not shown

(5) The Minimum Flows and Levels established in this Chapter 40D-8, F.A.C., are based on the best information available at the time the Flow or Level was established. The best available information in any particular case will vary in type, scope, duration, quantity and quality and may be less than optimally desired. In addition, in many instances the establishment of a Minimum Flow or Level requires development of methodologies that previously did not exist and so are applied for the first time in establishing the Minimum Flow or Level. The District has many ongoing environmental monitoring and data collection and analysis programs, and will develop additional programs over time. The District intends to coordinate with local governments, Tampa Bay Water, government-owned and privately-owned utilities, environmental regulation agencies, Tampa Bay Estuary Program, public interest groups and other affected and interested parties to design, create, and implement the program. Together with all the parties' designated experts, a long-term independent scientific peer review shall be included in the programs. These programs will supplement the District's available information upon which Minimum Flows and Levels can be established and reviewed. These programs collectively provide information to assist in 1) characterizing water regimes in wetland systems, and the relationships between and among surficial features, the surficial aquifer, and the Floridan aquifer; and 2) evaluating the measures available to prevent significant harm to the water resources and ecology, in addition to withdrawal management, and the effectiveness of those measures. Therefore, to apprise the Governing Board of advancements made under those programs, the District shall annually update the Governing Board regarding:

(a) The status of the water levels for those water bodies for which Minimum Flows or Levels have been established; and

(b) Any additional information or methodologies, as appropriate, that could be applied to:

1. Assess established Minimum Flows or Levels; or
2. Establish Minimum Flows or Levels for additional water bodies; or
3. Determine compliance with Minimum Flows or Levels.

Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.0395, 373.042, 373.0421, 373.216, 373.219, 373.223, 373.413, 373.414, 373.416 FS. History–New 6-7-78, Amended 1-22-79, Formerly 16J-8.01, Amended 8-7-00.

Appendix 5

Rules of the South Florida Water Management District Pertaining to Peer Review of MFLs

CHAPTER 40E-8, Florida Administrative Code

Minimum Flows and Levels

40D-8.011 Purpose and General Provisions.

(1) through (2) – Not shown

(3) The MFLs established herein are based on existing best available information, and will be periodically reviewed, at least every five years, based on new information and changing water resource conditions. Revisions to established MFLs will be peer reviewed as required by Section 373.042, F.S., prior to rule adoption. The minimum flow criteria for the Caloosahatchee River in subsection 40E-8.221(2), F.A.C., shall be reviewed within one year of the effective date of this rule, September 10, 2001, and amended, as necessary, based on best available information.

(4) through (5) – Not shown

Rulemaking Authority §§ 9, 10 P.L. 83-358, 373.044, 373.113, 373.171 FS. Law Implemented 373.016, 373.036, 373.0361, 373.042, 373.0421 FS. History–New 9-10-01, Amended 4-1-03, 1-19-06, 10-23-12.

Appendix 6**South Florida Water Management District Conflict of Interest Statement
Used for Peer Review****SOUTH FLORIDA WATER MANAGEMENT DISTRICT****Potential Conflict of Interest Statement**

1. Please describe any present or past working relationships with SFWMD (e.g., contracts, relatives, research collaborators, or former employment with the district).

2. Have you ever been, or are you now, associated with any organization with a vested interest in District activities (e.g., environmental groups, civic organizations, agricultural interests.)?

No _____ YES _____ (If yes, describe and include the nature of the relationship and whether any litigation was involved).

Signed: _____ Date: _____