



Save the Manatee® Club

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September 14, 2012

To: FDEP and WMD Leaders

Re: Consumptive Use Permitting Consistency

Comments Delivered Via: cupcon@dep.state.fl.us

We have reviewed the Subject CUPcon proposal, which is described as an attempt to seek statewide uniformity for water use permitting, and offer the following comments and concerns, which have been labeled for specific workgroups, where appropriate:

1. Applicable to Water Allocation Framework Flexibility; Permitting Criteria/Conditions of Issuance; Demand Projections/Demonstration of Need; Water Conservation/Per Capita; and Impact Analysis/Harm Definition Workgroups:

In The Water Resources Implementation Rule, Section 62-40.210, an "Impact Offset" is defined in lines 43-45 as "the use of reclaimed water to reduce or eliminate a harmful impact that has occurred or would otherwise occur as a result of other surface water or groundwater withdrawals." The reclaimed water system is structured, at least in some areas, to supplement reclaimed supplies with additional surface water supplies, to ensure that there is enough "reclaimed" water in the system to meet public demand. An example of this is the Yankee Lake Project in Seminole County- a 10 million gallon per day project to treat brackish water from the St. Johns River near Yankee Lake to augment reclaimed water supplies. Also in Seminole County, the North Seminole Regional Reclaimed Water and Surface Water Optimization Project- to treat surface water from Lake Monroe and expand reclaimed water infrastructure to deliver approximately 7.8 mgd. Another example is the DeLand Reclaimed Water and Surface Water Augmentation Project in Volusia County- a 2 mgd project to treat brackish water from the St. Johns to supplement the City's reclaimed water system. Removing surface waters from our lakes and rivers to augment reclaimed supplies is NOT a conservation measure; NOT a wise use of our surface water resources; and NOT a practice, when mixed with reclaimed supplies, that should be considered an impact offset.

This concept also applies to the new definition of "Substitution credit" in lines 112-117: "the use of reclaimed water to replace all or a portion of an existing permitted use of resource- limited surface water or groundwater, allowing a different user or use to initiate a withdrawal or increase its withdrawal from the same resource-limited surface water or groundwater source proved that the withdrawal creates no net adverse

impact on the limited water resource or creates a net positive impact if required by district rule as part of a strategy to protect or recover a water resource.” Such credits should not be given in cases where a reclaimed water supply is supplemented by surface water withdrawals. While substitution credits, where used appropriately, may be a worthwhile interim strategy, they fail to achieve the needed net reduction in water use that Florida must adopt to ensure a more sustainable future. Ultimately, we cannot continue to plant landscapes in the private and commercial sectors that demand intensive irrigation, and should be working to support and facilitate conversion of the landscape industry to Florida-friendly products and plantings.

2. Applicable to Permitting Thresholds; Permitting Criteria/Conditions of Issuance; Streamlining of Permit Application Review; Water Conservation/Per Capita; Impact Analysis/Harm Definition Workgroups:

Adoption of a No Notice General Permit by Rule for average daily withdrawals less than 100,000 gallons highlights much of what is wrong with Florida’s water policy. Every user has a cumulative impact on water supply. Every user must pay a price for water reflective of the cost of making that water available, including environmental costs, and every user must be encouraged if not mandated to reduce water use. Treating the use of 100,000 gallons per day as “no big deal”, by not requiring an individual permit, sends the wrong message to Florida’s citizens and businesses.

The Issuance of all CUPs should be suspended in those watersheds and springsheds where the Water Management Districts have yet to set MFLs because in those areas, the impacts of such withdrawals are not known, and water bodies may already be in need of prevention or recovery strategies. By association, the No Notice General Permit by rule should not be applicable to those watersheds and springsheds where MFLs have not yet been adopted.

All permits issued should include specific requirements for increased efficiency of water use including conservation pricing for public utilities; water efficiency standards for the home (to be achieved with water-efficient appliances, cisterns, etc.); watering restrictions; and required use of water-efficient irrigation methods and demonstrated BMPs for agriculture.

The public should have means to be notified of any CUP application, as this represents a privatization of a public resource. At a minimum, public notification should be made for permit applications involving proposed withdrawals of at least 1 million gallons per day, and the public should have 30 days to comment on these notices. Final decision regarding issuing any permits of this size should occur at a full meeting of the Governing Board, at which opportunity for public input is provided before the Governing Board votes.

3. Applicable to Permitting Criteria/ Conditions of Issuance; Streamlining of Permit Application Review; Demand Projections/Demonstration of Need; Water Conservation/Per Capita; Compliance Monitoring; and Impact Analysis/Harm Definition Workgroups:

CUPs should be issued for a maximum of 10 years, not the current 20 year time frame. A shorter permitting time frame is needed because the science being used to inform policy decisions is constantly evolving. Additionally, the amount of users withdrawing from a system has been changing dramatically each decade, and public supply demands are expected to continue to grow (28% increase in daily water use by 2030, according to

DEP). The current permitting framework (10-year compliance report) does not allow for allocations to be reduced during the review process.

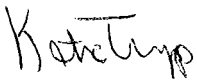
Additionally, at each permit renewal or re-application, the amount of water allotted should decrease, reflective of mandatory programs to reduce water use. Ideally, permits would not be issued for a consistent level of use over the life of the permit, but for an amount that reduces over time- i.e. 1 million gallons per day at the start of the permit, with stepwise reductions throughout the 10 year duration of the permit. This can definitely be achieved in the private sector. Its implementation may not be as applicable to agriculture, but agriculture should also be consistently challenged to reduce water use and increase efficiency.

4. Applicable to Streamlining of Permit Application Review workgroup:

If permit reviewers at the various Districts and DEP are expected to ensure prompt turn-around of applications, then a cap must be placed on the number of permit applications that can be submitted for processing each month. For example, applications could be due on the first of each month, with a maximum of 10 applications that can be reviewed. If an applicant is #11 in line, then he will be first on the list of the following month's applications to review, and the time clock will start at that time. Limited staff cannot be expected to complete thorough reviews if they are overwhelmed by a deluge of projects and at the mercy of a ticking time clock. The tendency in this scenario would be to rubber stamp projects to keep the process moving, which would be a violation of the public trust, and certainly not something that our Water Management Districts and Department of Environmental Protection would condone. Therefore, safeguards must be put in place to ensure thorough application reviews.

In general, we remain concerned about our state's approach to water supply and use. We believe that more can and should be done to implement meaningful conservation measures and change the way that we use water in Florida. Many AWS projects come with a major price tag and impacts to the environment that are not well understood and not appropriately reflected in cost-benefit analyses. These should be considered only as a last resort. In the agencies' work to implement consistency among all of the Water Management Districts, we ask the leaders and workgroup participants to ensure that no environmental safeguards are lost or standards lowered. Thank you for your consideration of these comments.

Sincerely,



Katie Tripp, Ph.D.

Director of Science and Conservation