



September 19, 2012

Janet Llewellyn
Division of Water Resources
3900 Commonwealth Boulevard
Marjorie Stoneman Douglas Building 49
Tallahassee, Florida 32399

Dear Ms. Llewellyn,

Thank you for taking the time to review our comments and providing an opportunity for us to participate in the CUPcon process.

Overall, St. Johns Riverkeeper has serious concerns about the potential for environmental safeguards to be weakened or eliminated and flexibility and oversight diminished in the effort to make the permitting process more consistent and streamlined.

We entrust our state agencies to represent our collective best interests by managing and allocating our waters in a manner that ensures the protection and sustainable use of these precious resources. Through the permitting process, we, the citizens of Florida, grant permit holders the opportunity to use our water with the expectation that they will use it as prudently and efficiently as possible. Maintaining this trust and fulfilling this obligation should always be the first priority of our elected officials and regulatory officials. Water is too precious, too valuable, and too limited to risk jeopardizing its health or its availability for current and future generations. Our quality of life, environment, and our economy are much more vulnerable from insufficient protections for our water resources than from a few inconsistencies in the permitting process.

Permit applicants obviously want to deal with a fair, consistent, and efficient permitting and regulatory system, and rightfully so. They want to know what is expected of them when seeking permission to use and potentially impact the natural resources, or public goods, that belong to us, the citizens of Florida.

However, providing certainty to the citizens that our water resources are being adequately protected should be the most critical concern, focus, and priority of any effort to reform the process. Businesses, utilities, and agricultural interests should be certain that rules will be applied fairly and consistently, but that it won't happen without intense scrutiny and high hurdles. We must ensure that allocations do not cause harm to our water resources and meet the public interest test, and that our water is being used as responsibly and efficiently as

possible. Our regulatory agencies must have adequate staff, time and flexibility to ensure that a thorough review of permit applications is conducted and sufficient mitigation or conditions are required to offset or minimize environmental impacts to the greatest extent possible. We simply can't afford to get these decisions wrong. While we should strive to create a more consistent and efficient regulatory process, it should never come at the expense of our water resources or the rights of the citizens to whom those resources belong.

Water conservation and the reuse of reclaimed water present the most prudent and cost effective options for meeting future water demand and pose the least amount of risk to the health of our waterways and economy. Therefore, the adoption of these strategies should be a primary objective of any permitting reform process. The alternative of building, operating and maintaining expensive surface water withdrawal facilities and desalination plants creates a significant financial burden for taxpayers and businesses and unnecessary environmental risks to our waterways that we simply cannot afford.

The CUPcon process provides an opportunity to facilitate the implementation of proven and cost-effective water conservation strategies and policies that will help us to more efficiently and sustainably prepare for our future water needs. In addition, water conservation, efficiency, and reuse measures can provide substantial cost savings for local governments, utilities, businesses, and residents in the long run.

Incentives should certainly be considered, especially cost-share funding options, but we can't rely on voluntary means to achieve efficiency goals. The only way to ensure that permit holders will successfully adopt conservation and efficiency measures is to require it and to make the renewal of permits conditional upon successfully achieving conservation goals. Any incentives that are utilized should not compromise the flexibility of state agencies to frequently evaluate progress and modify permit conditions when necessary.

Policy Concerns

As our groundwater resources become more limited and the risk of environmental harm and saltwater intrusion increase, we must retain more flexibility, not less, to be able to make timely adjustments to permits and per capita screening goals, if necessary.

I. Resource Limited Areas Underestimated

We are **concerned** that the Resource Limited Areas identified by DEP may significantly underestimate the areas of our state facing limited groundwater resources. For instance, the DEP map of Resource Limited Areas does not include many of the areas identified by the SJRWMD as Priority Water Resource Caution Areas in the current Water Supply Plan.

II. Proposed Permit Types and Thresholds

We are **opposed** to the issuance of "No Notice" General Permits by rule to applicants with an average daily rate of less than 100,000 gallons and a combined capacity of less than one million gallons per day. We understand the rationale considering the high

number of permits and the relatively small percentage of the total volume for permits within this threshold. However, the lack of public notice could potentially lead to less accountability and less assurance that water is being used as efficiently as possible and that water is being allocated and used for the public's best interest in a way that will not cause harm to our water resources.

III. Proposed Compliance Report Language and Longer Permits

We are **opposed** to longer permits or 10-year compliance reports. As our groundwater resources become more limited and the risk of environmental harm and saltwater intrusion increase, we must retain more flexibility, not less, to be able to make timely adjustments to permits and per capita screening goals, if necessary. We also still lack sufficient knowledge of our aquifers, the hydrological impacts of groundwater withdrawals, and the future effects of climate change. In effect, we have reached or are rapidly approaching the sustainable limits of our groundwater supplies and are facing many uncertainties in the future, necessitating the use of a precautionary approach to the permit decision-making process.

We are **opposed** to extending the requirement to submit a compliance report to more than once every five years. We also cannot afford to guarantee permit applicants that permits will not be modified if water conservation measures result in a reduction in water use. We must retain the flexibility to modify permits under all circumstances to adapt to changes in environmental and economic conditions, scientific knowledge, and the needs of natural systems and the citizens of our state.

IV. Allocation Reductions due to Successful Conservation

We are **opposed** to the prohibition of allocation reductions due to conservation as an incentive. Incentives for conservation should certainly be considered, especially cost-share funding options, but we can't rely on voluntary means to achieve efficiency goals.

V. Permitting Criteria Conditions for Issuance

We **recommend** that all CUP's include more aggressive and enforceable water conservation requirements. Please, consider adopting the following nine rule enhancements that the St. Johns River Water Management District (SJRWMD) staff was previously developing in 2010:

- Require landscape irrigation ordinance
- Informative billing
- Stormwater reuse
- Water use reporting for per capita calculations
- Updated regulatory approach for public supply water conservation
- ERP water conservation provisions
- Concurrent ERP/CUP application processing
- Water conservation rate structure
- Landscape Irrigation System Design/Installation Constraints

Unfortunately, these enhancements were never implemented, despite undergoing an extensive evaluation and stakeholder process. Most of the rule enhancements proposed by the SJRWMD staff were similar to the recommendations found in the 2007 report, "Being Drought Smart: Recommendations for a Drought Resistant Florida." (http://www.dep.state.fl.us/Drought/files/drought_smart_report.pdf)

The "Being Drought Smart" recommendations were developed by Work Groups comprised of experts and stakeholders that included SWFWMD, SFWMD, SJRWMD, FDEP, FDACS, UF, Florida Irrigation Society, Tampa Bay Water, local governments, and industry.

While utilities must provide a Water Conservation Plan to satisfy the "reasonable-beneficial use" criteria, these plans frequently do not produce sufficient water conservation results.

For instance, Seminole County's most recent CUP indicated that residential per capita water use was projected to decrease by only 1.8% over 20 years (137 gpcd to 134.5 gpcd) and gross per capita rates were expected to actually increase by 4 gallons (155.3 to 159.6).

VI. **Goal-Based Conservation Measures**

In addition to retaining existing conservation plan requirements (SJRWMD: audit, meter survey, leak detection, meter replacement, education program, conservation rate structure, reclaimed management plan), we **support** goal-based measures that involve setting specific numeric goals for the different types of utility customers using account-level data. The goals must be aggressive, enforceable, and frequently evaluated and updated, if necessary. A goal-based approach that is consistent with the Conserve Florida Manual could provide flexibility by allowing utilities to choose BMPs that most effectively target specific end users. Cost-share funding from the Districts or the Florida Water Protection and Sustainability Program (WPSP) could then be available to those utilities that achieve or show significant progress towards achieving the aggressive goals specified as conditions of their permits.

VII. **Water Withdrawal Measuring Methods**

We are **opposed** to water users being permitted to use various methods to measure water withdrawals. DEP needs to ensure that the most accurate and reliable method is required. According to some experts, the flow meter is the only verifiable method to accurately measure withdrawals.

VIII. **Water Withdrawal Reporting**

We are **opposed** to DEP requiring users to only report water withdrawal quantities on a semi-annual basis. *Monthly pumpage reporting should be required.* DEP and the Districts need to have timely reports to best protect our water resources and to have

adequate time to quickly respond to potential issues and take corrective actions when necessary.

IX. Agricultural Irrigation Water Use Efficiency Goals

We **recommend** aggressive water use efficiency goals and requirements for agricultural users to make system improvements/upgrades to inefficient irrigation methods when feasible. We also support the mandatory use of mobile irrigation labs (MILs) and adoption of BMPs. Development of consistent methodologies for accurately measuring water use and estimating agricultural water demands should also be a priority. Again, cost-share funding should be available to assist with the implementation of these requirements.

Thank you again for taking the time to review our concerns and recommendations. We look forward to working with you to ensure that our natural resources are being highly valued and protected.

For All of Florida's Waters,

A handwritten signature in cursive script that reads "Lisa Rinaman".

Lisa Rinaman
St. Johns Riverkeeper