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September 11, 2012

Mr. Greg Munson
Deputy Secretary
Office of Water Policy and Ecosystem Restoration
Florida Department of Environmental Protection
Douglas Building, Room 1051G
3900 Commonwealth Blvd., MS 23
Tallahassee, Fl. 32399-3000

Re: Consumptive Use Permitting Consistency

Dear Mr. Munson:

Thank you for the opportunity to provide input on the Florida Department of Environmental Protection's Consumptive Use Permitting Consistency proposals. Tampa Bay Water appreciates the opportunity to review and provide comments on these concepts and we will remain engaged in the process and offer additional comments on additional rule language as it is proposed. Tampa Bay Water agrees that consistency in Consumptive Use Permit Rules between Water Management Districts will promote an equitable review of permit applications for all users and reduce confusion and conflicts where Water Management District boundaries meet. We appreciate the hard work of the Department and Districts in this effort. Tampa Bay Water's comments and recommendations are below.

Proposed Changes to Chapter 62-40, F.A.C.

Tampa Bay Water supports the proposed concepts of maximizing the use of reclaimed water to offset environmental impacts.

We recommend that in a Resource Limited Area where Substitution Credits are sought, that the Substitution Credit should not be limited to the same as or less than the permitted withdrawal to be terminated. The amount of a Substitution Credit could differ depending on the location of the withdrawal to be increased, the terminated withdrawal, environmental feature(s) under evaluation, and the amount of environmental benefit achieved by terminating a withdrawal. The amount of the Substitution Credit could be less, the same, or greater than the retired withdrawal quantity depending on the resource needs and/or environmental benefits that result. Since reclaimed water projects can be very expensive, this approach would provide the greatest incentive to implement the project while assuring environmental protection.

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Another area to consider is how the concept of Impact Offset or Substitution Credits might be applied to a Consumptive Use Permit that covers multiple withdrawal facilities that function as a conjunctive water supply (individual withdrawal limitations not assigned to each facility). We welcome the opportunity to explore this further with you if that would be of benefit.

Proposed Changes to Rule 40D-2.321 and 40D-2.322, F.A.C.

Tampa Bay Water supports the proposed changes to Rule 40D-2.321, F.A.C. relating to the duration of permits. Issuance of permits for duration of 20 years, when the proposed use meets all specified rules and criteria, reduces the burden of more frequent permit renewals and provides greater assurance of a stable water supply for all users.

Tampa Bay Water also supports the proposed changes to Rule 40D-2.322 relating to ten-year compliance reporting. We agree that water conservation should be an incentive and permitted quantities should not be reduced due to the resulting demand reduction. We also agree with the clarification that during the evaluation of this ten-year compliance report, the District will use the conditions for issuance set forth in the rules that existed at the time when the District issued the permit.

For permits issued for longer than 20 years, we recommend that the rules should require that a compliance report be submitted every 10 years (instead of every five years as outlined in the current draft proposal). This would be consistent with the rules for 20 year permits.

Permit Types/Thresholds

Tampa Bay Water supports the need to reduce the number of different Consumptive Use Permit types. Regarding the issuance of No Notice General Permits within the Southwest Florida Water Management District, we support the District's determination that this category of permit will not be issued within the Northern Tampa Bay Area, Southern Water Use Caution Area, or the Dover/Plant City Water Use Caution Area in order to not hinder the environmental recovery underway in these Resource Limited Areas. Since there is a potential for new "No Notice General Permits" to be authorized near the border of the Resource Limited Areas and exacerbate the existing impacts or impair the environmental recovery efforts underway within these areas, the District should consider adding an appropriate buffer zone outside the Caution Areas to prevent these potential impacts.

Tampa Bay Water understands and supports the need of the Districts to focus their resources on reviewing the largest Consumptive Use Permit applications; however,

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we are concerned with the thresholds proposed for obtaining a “No Notice General Permit.” A significant quantity of water can be withdrawn from a single well of less than 8-inches in diameter. While a single new “No Notice General Permit” may not interfere with a legal existing permit or create environmental concern, multiple new permits of this type have the potential to interfere with the withdrawal of a legal existing use or create a new area of environmental impact. We recommend that the thresholds for obtaining such a permit be reduced or that a basic level of review of “No Notice General Permit” applications be performed by the Districts to alleviate these concerns.

Conditions for Issuance

Tampa Bay Water agrees that there is benefit to standardizing the Conditions for Issuance of a Consumptive Use Permit throughout the State. The proposed language references “standards and criteria set forth in the Applicant’s Handbook”. We welcome the opportunity to review and provide comments on this document as soon as it is available.

Current permitting rules within the Southwest Florida Water Management District establish two thresholds, harm and significant harm. Tampa Bay Water would also like to provide input on the definition of “harm” when the Department and Districts begin work on this important topic. We understand that this definition may be developed as a part of the Central Florida Water Initiative efforts (CFWI). If the Department determines that the definition proposed in the CFWI will be used state-wide, Tampa Bay Water strongly recommends the opportunity to provide input on the definition be offered to those outside the CFWI, prior to the definition being finalized for statewide application. As this definition is developed, along with other Tier 2 and 3 issues, Tampa Bay Water will provide review comments and recommendations on any new proposed rules and as appropriate, offer additional comments on the current set of proposed rules as all of these issues are inextricably related.

Water Conservation

Tampa Bay Water agrees that water conservation should continue to be encouraged and a consistent method of calculating per capita water consumption should be developed. We support the concept that if water demand is reduced due to conservation efforts, the Consumptive Use Permit used to meet that water demand will not be reduced by the conservation amount. We understand that the issue will be how to determine what component of reduction in water demand was due to water conservation actions. We support the proposed concept of a consistent screening level per capita water use that would trigger the development of a goal-based water conservation plan. One consideration is how this standard will be



applied to a water supply authority that serves multiple local jurisdictions. We welcome the opportunity to explore this further with you if that would be of benefit.

Tampa Bay Water strongly supports the concept of extending the permit duration to account for the water saved through conservation measures. This will assure that conservation efforts are incentivized and not penalized.

Compliance Reports

Tampa Bay Water agrees with the Department and the Districts' concept that a 10-year compliance review should not be an exhaustive re-evaluation that would create a burden on both the permittee and the District. We suggest that the following items be considered during a 10-year compliance review:

- Summary review of water use and demand data and projections used to provide reasonable assurance during permit application.
- Summary review of environmental conditions potentially affected by the permitted withdrawal. If observed conditions continue to be consistent with projections, the District should find that reasonable assurance has been provided with respect to the Conditions for Issuance.
- The District should consider the compliance record of the permittee with respect to all conditions of the permit under review.

Compliance Monitoring

Tampa Bay Water does not have any comments on the proposed compliance monitoring forms. We encourage the Department and Districts to continue to allow for electronic submittal of all permit-required data in a format this is acceptable to the Districts. We also encourage the Department and Districts to continue to allow the submittal of data in alternative formats, such as summary reports, in lieu of data submittal forms.

Permitting of Conjunctive Use and other Multiple Water Sources Guidance Memorandum

Tampa Bay Water agrees with the Department that diversifying the sources of supply and maximizing the degree of interconnection among sources is an excellent way to meet future demands. We appreciate the Department's guidance that the implementation of this concept through permitting should encourage flexibility. We recommend that the best way to accomplish this while protecting the environment is to establish explicit environmental performance goals in the permit that must be met. Operations of the water supply system will then be the purview of the permittee as long as that operation is within the permit limits and is meeting the environmental performance requirements. Permittees have many requirements in addition to those

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within Consumptive Use Permits such as Federal and State water quality permit requirements, hydraulic and system operational constraints, and bond covenants governing debt service payments. The establishment of environmental performance as the metric of measurement instead of operational mandates would provide a better incentive to conjunctive use permitting. We welcome the opportunity to discuss this further with you if that would be of benefit.

Guidance on Groundwater Augmentation of Surface Waters Memorandum

Tampa Bay Water agrees with the Department that the use of groundwater to augment surface water bodies must be carefully reviewed and limited in extent. In the Tampa Bay area, groundwater is used to augment a limited number of lakes and wetlands to achieve environmental recovery in stressed areas and to provide for wildlife relief during times of drought. The use of groundwater for augmentation will continue to be an important component of the Recovery Strategy for the Northern Tampa Bay Water Use Caution Area. Tampa Bay Water must be allowed to retain the opportunity to use all available source waters to promote this recovery. In some locations, groundwater will be the only source of water that can be used to assist the environmental recovery of a lake or wetland. If groundwater augmentation is removed as one of our available tools and this agency continues to be held to the environmental recovery metrics currently in place, there is a significant risk that currently permitted withdrawal quantities may be reduced and those quantities replaced with more expensive sources of water. This would cause an impact to the economic health of the Tampa Bay area by directly impacting end customer rates. We welcome the opportunity to discuss this further with you if that would be of benefit.

Thank you again for the opportunity to provide input on this important effort. We commend the Department and the Districts for undertaking it. We are available to assist you further and answer any questions you might have regarding our comments. Please call me if it would benefit you to meet to discuss any of them.

Sincerely,

A handwritten signature in blue ink, appearing to read "Gerald J. Seeber".

Gerald J. Seeber
General Manager

cc: Mr. Blake Guillory, Executive Director, Southwest Florida Water Management District