

Environmental Constraints on
Water Supplies Under The
Florida Water Resources Act
(Ch 373, F.S.)

Consumptive Use Permitting (CUP or WUP)

Regulated Activities

- All withdrawals or diversions subject to CUP
- Exception: Domestic, indoor use for cooking, bathing, sanitation

Three Criteria

- No interference with existing legal users
- Reasonable beneficial use
- Public interest

"Reasonable-beneficial use"

- means the use of water in such quantity as is necessary for economic and efficient utilization for a **purpose** and **in a manner** which is both **reasonable and consistent with the public interest**.
- Efficiency of water use.
- **Harm caused to water resources**
 - **E.g. drawdown effects on lakes or wetlands**
- Practicality of reuse or lower quality water
- Salt water intrusion or water quality impacts
- Social and economic value of the use

Environmental Impacts

- **RBU / Public Interest Standards**
 - allows consideration of environmental impacts on case by case basis
 - eg no adverse effects on wetlands or lands of others
- **Minimum Flows and Levels**
- **Reservations**

373.042. Minimum flows and levels

(1) Within each section, or the water management district as a whole, the department or the governing board **shall** establish the following:

(a) **Minimum flow** for all surface watercourses in the area. The minimum flow for a given watercourse shall be the limit at which further withdrawals would be **significantly harmful** to the **water resources or ecology** of the area.

(b) **Minimum water level**. The minimum water level shall be the level of groundwater in an aquifer and the level of surface water at which further withdrawals would be **significantly harmful** to the **water resources** of the area.

1997 Legislation

- Priority list
- Consider altered water bodies, but no significant harm
- Prevention and Recovery Plans

Regional Water Supply Plans

- Required if water shortages exist or are predicted within 20 years
- Plan to provide water for all existing and predicted uses and natural systems
- Cost must be determined. Not clear who pays.

Prevention and Recovery Plans

Prevention Plans

- Avoid violations of MFL
and
- Provide for all existing and projected RBU

Recovery Plans

- Achieve MFL
and
- Provide for all existing and projected RBU

Reservations

- 373.223(4) The governing board or the department, by regulation, may **reserve from use by permit applicants**, water in such locations and quantities, and for such seasons of the year, as in its judgment may be required for the **protection of fish and wildlife** or the public health and safety. Such reservations shall be subject to periodic review and revision in the light of changed conditions. However, all **presently existing legal uses of water shall be protected so long as such use is not contrary to the public interest.**

40C-2.302 Reservation

The Governing Board finds that reserving a certain portion of the surface water flow through Prairie Creek and Camps Canal south of Newnans Lake in Alachua County, Florida, is necessary in order to protect the fish and wildlife which utilize the Paynes Prairie State Preserve, in Alachua County, Florida. The Board therefore **reserves from use by permit applicants that portion of surface water flow in Prairie Creek and Camps Canal that drains by gravity through an existing multiple culvert structure into Paynes Prairie.** This reservation is for an average flow of 35 cubic feet per second (23 million gallons per day) representing approximately forty-five percent (45%) of the calculated historic flow of surface water through Prairie Creek and Camps Canal.

Comprehensive Everglades Restoration Plan (CERP)

WRDA 2000

Assurance of Project Benefits

- **Reservation identified in PIR**
- **Requires the execution of state water reservations for natural system water before execution of a project cooperation agreement (PCA)**
- **Operating Manuals must be consistent with water reservation**

President and Governor Agreement 2002



... State shall ensure, by regulation or other appropriate means, that **water made available** by each project in the Plan shall **not be permitted for a consumptive use or otherwise made**

unavailable by the State **until** such time as **sufficient reservations of water for the restoration of the natural system** are made under State law in accordance with the project implementation report for that project and consistent with the Plan