

Overview of Consumptive Use Permitting & Water Supply Planning



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Impetus for Florida Water Resources Act

- 1940's and 1960's: severe flooding from hurricanes
- Early 1970's: drought



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Statutory Framework

- Florida Water Resources Act
- Chapter 373, Florida Statutes
- Enacted in 1972



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State/Regional Management of a Public Resource

§373.016(4)(a):

“Because water constitutes a public resource benefiting the entire state, it is the policy of the legislature that the waters in the state be managed on a state and regional basis”



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**Northwest Florida
Water Management
District**

**Suwannee River
Water Management
District**

**St. Johns River
Water Management
District**

**Southwest Florida
Water Management
District**

**South Florida
Water Management
District**

**Florida's Five
Water
Management
Districts**

WMD mission areas....

- Water supply
- Water quality
- Natural systems
- Flood control



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WMD Activities:

Research

Data Collection

Planning

Regulation

Education

Restoration

Land Acquisition

Land Management



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Primary WMD Regulatory Programs

- Consumptive Use Permitting (CUP)
- Water Well Construction/Licensing
- Environmental Resource Permitting



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Consumptive Use Permitting Part II, Chapter 373

- Florida Statute Governing Consumptive Uses of Water
- WMDs have exclusive, preemptive authority for regulating consumptive uses



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Purpose of Consumptive Use Permitting program

- Section 373.219, F.S., provides:

“The governing board or the department may require such permits for consumptive use of water and may impose such reasonable conditions as are necessary to assure that such use is consistent with the overall objectives of the district or department and is not harmful to the water resources of the area.”



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Definition

- Consumptive Use – “Any use of water which reduces the supply from which it is withdrawn or diverted.”
- Includes both groundwater and surface water

Section 2.0(h), SJRWMD Applicant’s Handbook, Consumptive Uses of Water



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Benefits of CUP Program

- Promotes the use of water for beneficial purposes & prevents wasteful uses
- Requires water conservation & the use of lower quality waters
- Provides users with certainty about water rights
- Protects existing legal users from harm caused by new uses
- Protects public interest
- Administrative process to resolve water use conflicts



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CUP Permits at SJRWMD

- Four types of consumptive use permits:
 - Individual permit (Governing Board approval)
 - Standard general permit (.1 to .5 mgd)
 - Noticed general permit (for example, construction dewatering & fire protection)
 - Permit by rule (<.1 mgd)
- Staff uses the same criteria to review standard general and individual permits
- Individual permits and denials of any standard general permits require Governing Board action



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CUP Permits at SRWMD

- Three types of consumptive use permits:
 - Individual permit (Governing Board approval)
 - General water use permit (< 2 mgd avg. day)
 - Minor water use permit (< .1 mgd avg. day)



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Overview of Consumptive Use Permitting (CUP) Program

- Permit all consumptive uses of water except those exempted by statute or District rule
- Statutory exemptions: domestic consumption by individual users (373.219, F.S.)
- Permits authorize water use
 - with a specific allocation (quantity)
 - from identified source(s) of water
 - for a particular use
 - for a permit duration
- When permit expires, the use must be authorized under a new permit



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Permit Duration, Limiting Conditions & Compliance Reports

- Pursuant 373.236, F.S., permits shall be granted for a period of 20 years, if requested for that period of time, if there is sufficient data to provide reasonable assurance that the conditions for permit issuance will be met for the duration of the permit
- Compliance reports for 20 year permits when necessary to maintain reasonable assurance
- Pursuant to 373.219, F.S., the District may require limiting conditions to be placed on permits, for example:
 - water use monitoring
 - mitigation of any unanticipated interference



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“Three Prong” CUP Test (§ 373.223, F.S.)

To obtain a permit, the water use....

- Must be “reasonable – beneficial”
- Must not interfere with existing legal users
- Must be consistent with the public interest



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Definition of Reasonable Beneficial Use

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.

Section 373.019(16), F.S.



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Reasonable—Beneficial Criteria - SJRWMD

Use must be reasonable-beneficial

- Economic & efficient utilization
- Reasonable and consistent with the public interest
- Source of water is capable of producing requested amount
- Environmental or economic harm reduced to an acceptable amount
- All feasible water conservation measures
- Use of reclaimed water unless demonstrated to be infeasible



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Reasonable—Beneficial Criteria - SJRWMD

Use must be reasonable-beneficial

- Lowest acceptable quality water source, including reclaimed water or surface water, must be used
- No significant saline water intrusion
- No flood damage
- Cannot cause or contribute to a violation in state water quality standards
- Water quality of the source not seriously harmed
- Cannot cause a violation of minimum flows or levels



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Reasonable—Beneficial Criteria - SRWMD

Use must be reasonable-beneficial

- Economic and efficient utilization
- Reasonable and consistent with the public interest
- Source of water capable of producing requested amount and appropriate quality
- The use will not degrade the source from which it is withdrawn
- The use will not cause or contribute to flooding



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Reasonable—Beneficial Criteria - SRWMD

Use must be reasonable-beneficial

- The use will not harm offsite land uses
- The use will not cause harm to wetlands or other surface waters
- The use will not cause or contribute to a violation of either minimum flows or levels
- The use will not cause or contribute to a violation of state water quality standards



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Existing legal uses

Use must not interfere with existing legal uses

- Existing legal uses includes permitted uses and exempt uses, such as domestic wells
- Cannot decrease the withdrawal capability of any facility of a legal use of water which was existing at the time of the application such that the existing user experiences economic, health, or other type of hardship



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Public Interest....

“Public Interest” means those rights and claims on behalf of people in general. In determining the public interest in consumptive use permitting decisions, the Board will consider whether an existing or proposed use is beneficial or detrimental to the overall collective well-being of the people or to the water resource in the area, the District, and the state.



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Section 9.3 SJRWMD Applicant's
Handbook, Consumptive Uses of Water

1997 Legislation

Chapter 373, Florida Statutes

Water Supply Planning Provisions

- Designation of Water Supply Planning Regions
- District-wide Water Supply Assessment
- Regional Water Supply Plan(s)



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Water Supply Planning

373.709 Regional water supply planning.

The governing board of each water management district shall conduct water supply planning for any water supply planning region . . . , where it determines that existing sources of water are not adequate to supply water all existing and future reasonable-beneficial uses and to sustain the water resources and related natural systems for the planning period.



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This Process Is ...

A water supply planning process designed to assure the availability of water for all reasonable-beneficial uses through the planning period without unacceptable impacts



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District-wide Water Supply Assessment

- 20 - Year Planning Horizon
- Developed in Open, Cooperative Process
- For each Planning Region:
 - Existing and projected needs
 - Known sources
 - Whether sources adequate to meet needs



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Regional Water Supply Plans

- 20 -Year Planning Horizon
- Developed in Open, Cooperative Process
- Plans identify programs and projects that will ensure adequate and sustainable water supplies are available to meet future needs while protecting the environment.
- Acceptance by the Governing Board
- Incorporation into District Water Management Plan
- Update/Re-evaluate Every 5 years



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Typical Water Resource Constraints

Defining sustainable options

- Impact on minimum flows and levels
- Saltwater intrusion
- Water quality
- Impacts on wetland and lake water levels
- Impacts on springflow
- Sinkholes
- Interference with existing legal users



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Regional Water Supply Planning Goal

Identify economically feasible sources of water and implementation strategies to meet water supply needs through the planning period without causing unacceptable impacts.



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