

Water Resource Protection Manual for Florida Activists

Produced by



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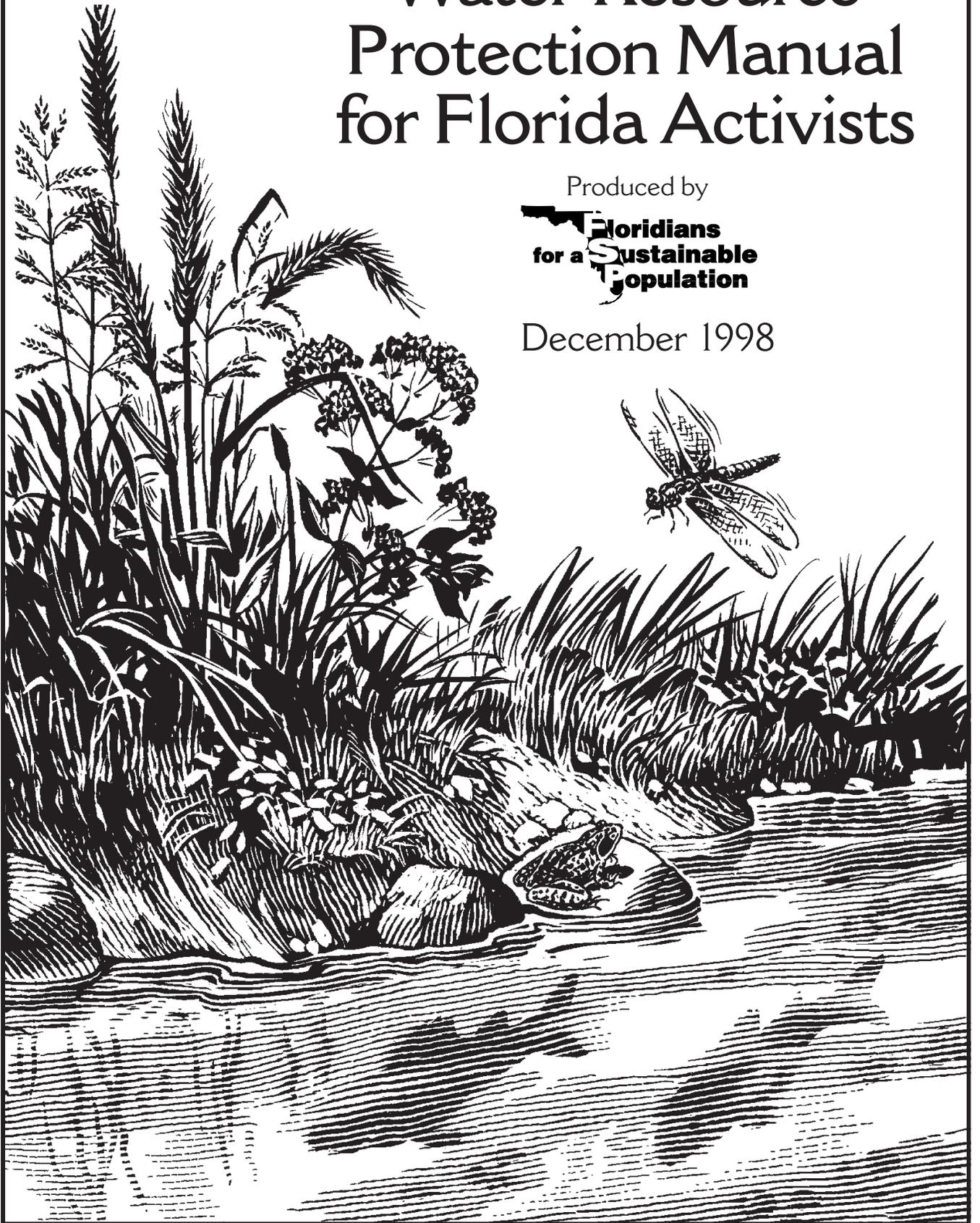


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FOREWORD

In May of 1998 I was shown a report on the six-year history of illegal water use by my city of Pompano Beach, in Broward County, Florida. The city had been operating without a consumptive use permit since February of 1992 ignoring all requests by the South Florida Water Management District to take steps to protect the city's Eastern wellfields from an encroaching salt water intrusion line.

The Water Management District, despite statutory responsibility to protect Florida's water resources, allowed Pompano Beach to continue to extract water from the Biscayne Aquifer, and the city continued adding hundreds of new water users during this six-year period of non-compliance.

After many phone calls and dozens of letters to every environmental organization and attorney from Tallahassee to New York to Washington, a plan of action came from Charles Lee, Executive Vice-President of Florida Audubon Society. The Verified Complaint, which you will find in this Manual, was suggested by Charles and with the help of a sample he supplied, a complaint was filed in June 1998. This action put me on the correspondence list for communications between the Water Management District and the city.

With two small grants Floridians for a Sustainable Population was able to procure, we engaged a water law expert and attorney, Frances M. Farina, to map out a game plan and a strategy to push the District into fulfilling its obligation to protect the city's wellfields from overpumpage. We realized this sorry performance by the South Florida Water Management District reflected an attitude that can be found in each of Florida's five water management districts and that the research and process we were developing could be utilized by others who were seeking remedies for their local situations.

We hope this Manual will help other individuals and groups to go on the offensive to protect the health and safety of their communities whether the violation is surface water pollution or diversion, or overpumpage. As Fran Farina succinctly stated, "It is our job to make them do their job".

Floridians for a Sustainable Population wishes to thank Charles Lee of Florida Audubon Society for his timely advice; Attorneys David Guest and Ansley Samson of the Earth Justice Legal Defense Fund for their Putnam County Citizens brief; The Weeden Foundation for the research grant and the Charles & Edith Munson Foundation for underwriting this and other publications of F. S. P. A special thank you to Fran Farina whose long years of dedication to water issues made her the ideal person to oversee our project and to write this Manual.

And, last but not least, all Floridians owe a huge debt to Michael Browning and to his newspaper, the Miami Herald, for two outstanding surveys on Florida's population growth and water crunch: "Tidal Wave", February 23, 1997 and the five-part water series titled, "Whatever Happened to Florida's Water?", May 1998.

*– Joyce Tarnow, President
Floridians for a Sustainable Population*



GUIDE TO CITIZEN ACTION FOR WATER RESOURCE DAMAGE

Is your community facing saltwater intrusion in its drinking water supply? Is pumping reducing water levels in a neighboring lake or causing a wetlands area to dry up? Is your city issuing building permits without having a valid permit from the regional water management district? Situations like these are happening all around Florida and you can do something about it!

This guide reviews Florida legislation as the means by which you can seek relief administratively or in state court.



GENERAL INFORMATION

In 1971, Florida passed an Environmental Protection Act as a means of carrying out Florida's constitutional mandate to abate air and water pollution within the state. The law which gave private citizens the right to sue to stop this kind of pollution is found in the Florida Statutes at Section 403.412. It provides a procedure where governmental bodies could be compelled to enforce environmental laws and individuals, corporations and governmental bodies could be restrained from violating any of the applicable environmental laws. It is unique because it allows you to sue for protection of the environment without showing "special injury."

A copy of Section 403.412 is included in this guide.

INITIAL ACTIVITY - PROVIDE NOTICE TO THE GOVERNMENT

Before you can go to court, you must first file with the governmental agency or authority charged by law with the duty of regulating or prohibiting the act or conduct complained of. For water resource damage issues, this agency will usually be the regional water management district. Your filing consists of preparing a **Verified Complaint**. You must set out the facts on which your complaint is based and the way in which you are affected.

Caveat: Do not confuse this agency-related notification which happens to be called a "complaint" with the complaint filed later in court.

Note: If the only agency involved is your water management district and no other third party, you can file directly in circuit court and demand action within 30 days.

On receipt of the complaint, the water management district must immediately transmit the complaint to any additional parties charged with violating the laws, rules, and regulations for the protection of the water and dependent natural resources of the State of Florida. The water management district will have **30 days after receiving the complaint** within which to take action. If action is not taken,

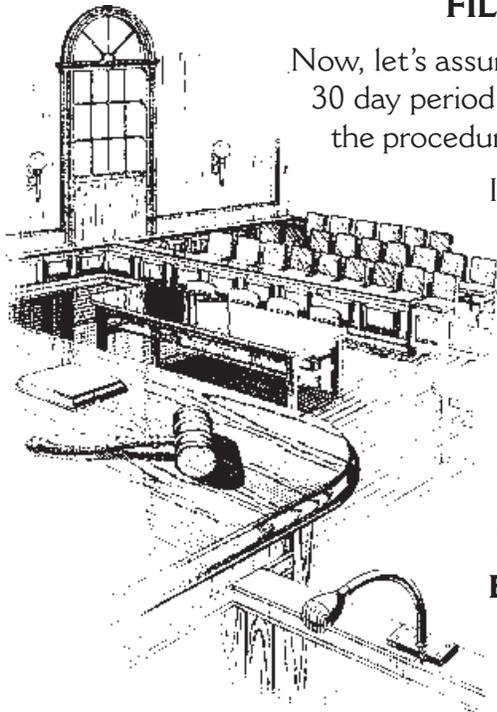
you can then begin a judicial proceeding to compel the required conduct or to enjoin (stop) the objectionable conduct.

A sample Verified Complaint is included to assist you in preparing your own version together with a transmittal letter to the water management district. While the statute does not require the document to be sent by certified mail, return receipt requested, posting the document in this manner will allow you to track the 30 day period precisely.

This may be the only action you need to take to correct the problem which concerns you. If the governmental agency is responding to you, then you have accomplished your objective.

Caveat: There is another exception to the requirement of filing an administrative verified complaint first. You can go immediately to court for a **Temporary Restraining Order** to protect against immediate and irreparable environmental harm from the conduct or activity about which you are complaining.

FILE LAWSUIT IN COURT



Now, let's assume that the water management district did not act within the 30 day period or responded in a way which you feel is inadequate. What is the procedure for moving forward?

In order to make your case (the legal terminology for which is to state a cause of action) under Section 403.412, it must appear that the question or issue raised is real and not merely theoretical. In addition, you, as plaintiff, must have a bona fide and direct interest in the result. In plain English, you would describe who you or your organization's members are, how they use the water resource or natural resources which are dependent upon the water resource, and what the defendant is doing which interferes with or damages the resource.

Example: You are a nonprofit corporation whose members use certain waters for bathing, swimming, fishing, boating, water sports and as a recreation area which are being polluted by a local utility's discharge.

The lawsuit must be filed in the circuit court of the county where the alleged harm has occurred or may occur. This is known as "venue." It means you won't have to travel to a distant location to participate in the litigation. This makes it more convenient for you.

A list of the Judicial Circuits has been provided. For example, if you live in Alachua County, you are in the Eighth Circuit.

Caveat: Some counties are located in two water management districts. Identify the resource being impacted and which district is responsible for protecting it.

If you win in court, you can recover attorney's fees and costs. If you lose, you have to pay. If the court thinks you may not have sufficient assets to cover these expenses, it can require you to post a bond. Note that the award of attorney's fees and costs to the prevailing party is discretionary for certain pollution discharge (NPDES) permit actions. In all other instances, it is mandatory.

One way to avoid personal liability is to have an incorporated organization bring the lawsuit. Most

Florida courts have concluded that corporations are citizens for the purpose of pursuing rights granted to citizens. Section 403.412(2) (a) allows any citizen of the state to maintain an action for injunctive relief against any governmental agency charged by law with the duty of enforcing laws, rules, and regulations for the protection of the water and other natural resources of the state.

Another alternative is to contact the Department of Legal Affairs which is also authorized to maintain an action for injunctive relief under Section 403.412.

Now that we have the general outline of how the administrative and judicial process work, let's get more specific and talk about water problems.

WATER INFORMATION

Most of the water-related activities will be found in the Florida Water Resources Act of 1972. This is also referred to as Chapter 373 of the Florida Statutes. The law had a dual purpose - to provide for conservation of the available water resources while maximizing their beneficial use. Of critical importance is a section of the Act which required the establishment of **minimum flows and levels**. This is found at Section 373.042 and was recently modified by the Florida Legislature in 1997. (A copy of Section 373.042 is included in the guide). Unfortunately, most of the regional water management districts still have not fully complied with this section. Public pressure is needed to rectify the situation.



WHY ARE MINIMUM FLOWS AND LEVELS IMPORTANT?

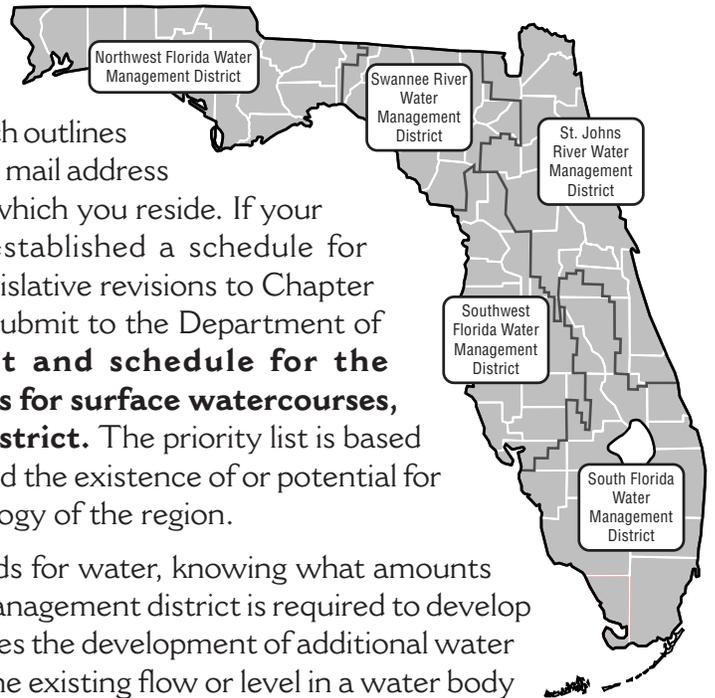
Only one case in Florida has dealt with minimum flows and levels. It is called *Concerned Citizens of Putnam County for Responsive Government, Inc. vs. St. Johns River Water Management District*. The official citation for the case is 622 So.2d 520 (Fla.App. 5 Dist. 1993). If you are in a law library, you would find the Southern Reporter 2nd Series, Volume 622 and turn to page 520 where the case begins. Here's what the court said:

“The District plans are set forth in the Florida Administrative Code, Title 40C. These regulations make references to minimum flows and levels established pursuant to section 373.042 and require minimum flows and levels to be considered when granting permits or when imposing water restrictions that limit the amount of water that may be withdrawn by a private property owner. See, e.g., Fla.Admin.Code Rules 40C-2.301(5) (a) (5) and 6; 40C-4.301(l) (a) (4); 40C-21.271(3) (c) It does not require an engineer to grasp the importance of section 373.042. The establishment of minimum water levels and flows allows the monitoring of Florida's water supply for the purpose of determining when emergency restrictions on water usage must be activated or when supply will no longer meet increasing demands.”

This quotation is found at page 523 of the decision. Even the court acknowledged it was difficult to understand how the water management district could manage the water supply without establishing minimums!

To summarize, the governing board of each of the five regional water management districts is to establish the minimum flow of all surface watercourses within its boundary as a limit at which further withdrawals would be considered significantly harmful to the water resources or the ecology of the area. The boards are also to establish the minimum water levels of ground water in an aquifer and the level of surface water at which further withdrawals would be considered significantly harmful to the water resources of the area.

Do you know if your regional water management district has established minimum flows and levels for the water bodies which service your community? A map is included which outlines the boundary for each district and provides each mail address and telephone number. Identify the district in which you reside. If your district hasn't established "MFLs", has it established a schedule for completing the task? According to the 1997 legislative revisions to Chapter 373, each water management district was to submit to the Department of Environmental Protection **a priority list and schedule for the establishment of minimum flows and levels for surface watercourses, aquifers, and surface waters within the district.** The priority list is based on the importance of the water to the region and the existence of or potential for significant harm to the water resources or ecology of the region.

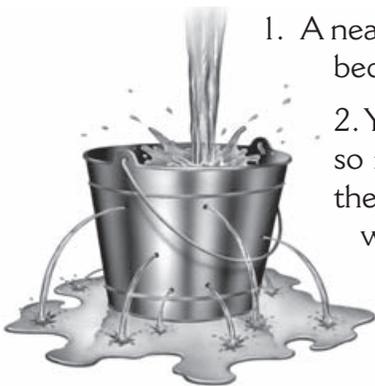


As new development makes additional demands for water, knowing what amounts can safely be extracted is critical. Your water management district is required to develop a recovery or prevention strategy (which includes the development of additional water supplies or other actions) if it determines that the existing flow or level in a water body is below or is projected to fall within 20 years below the applicable minimum flow or level established under Section 373.042. Thus, minimum flows and levels is an important tool in protecting your water resources.

Extractions of water are controlled by the water management districts issuing consumptive use water permits. Except for domestic consumption of water by individuals, all new and existing uses are subject to this permit procedure. An applicant seeking new or existing water use must show that (1) the use is reasonable-beneficial (which is defined in Section 373.019(13)), (2) won't interfere with any presently existing legal use of water, and (3) is consistent with the public interest.

ILLUSTRATIONS WHICH REQUIRE YOUR ACTION

Here are some examples of problems which might require you to take action:



1. A nearby wetland is drying out and the vegetation is dying or severely stressed because of the local utility's wellfield operations.
2. Your city's wells are close to the coast. Because the pumping has increased so much over the years, saltwater intrusion has entered or is approaching the wellfield and threatening your water supply with contamination. Some wells may already have been closed because of the contamination.
3. The effluent from your sewage treatment plant is dumped into a local river or lake. Fish in that water body are dying or showing open sores on their bodies.
4. Your city has been operating without a valid permit from the regional water management district or is violating conditions of the permit.
5. Your regional water management district is allowing excessive water withdrawals which have caused certain lakes or rivers to dry up or has caused the flow rates of certain rivers or springs to diminish significantly.
6. The operation of a spillway is sending pollution into a canal and surrounding waters.

WHERE SHOULD YOU BEGIN?

Knowledge is power. The more informed you are about your particular problem and the people with whom you must deal, the more successful you will be.

There are a variety of public documents which can get you started. These are usually available without charge. Once you get them, it's your responsibility to read them. They can tell you a lot about the governmental agency you must deal with, how it operates, what it is working on, and whether it is following its own time lines and rules. A list of typical water management district documents is provided in this guide to assist you.



Once you have done your preliminary reading, start making a list of questions. It may be appropriate to call for an appointment at the agency. If they know the nature of your questions (e.g. technical or general), they can assign the appropriate staff person to meet you. Your purpose is to clarify your understanding of the problem and what the agency is or is not doing about it. That way, when you prepare your Verified Complaint, your statements will be accurate and complete.

If your city or county is involved, you may want to enlist the assistance of one of your elected officials to secure additional information. It's a fact of life that agencies respond more quickly to official inquiries than to mere citizen inquiries.

Caveat: Be careful whom you select. If you are not familiar with the elected official's voting record, you may be dealing with an individual who can do more harm than good as well as waste your time.

Are there other individuals or groups who would be concerned about the issue if they were informed about it? Networking can develop additional support for your effort, either in the form of information, people to do research, or possibly money.

Having done all of the above, it's time to move forward. Begin drafting your Verified Complaint. Let others review it. When you think it's as clear as you can make it, send it via certified mail, return receipt requested. Then congratulate yourself for participating in a process which will attempt to make a governmental agency respond and do its job. If you ultimately need to go to court, you should try to secure the services of an attorney. Remember, Section 403.412 provides costs and attorney's fees to the prevailing party.

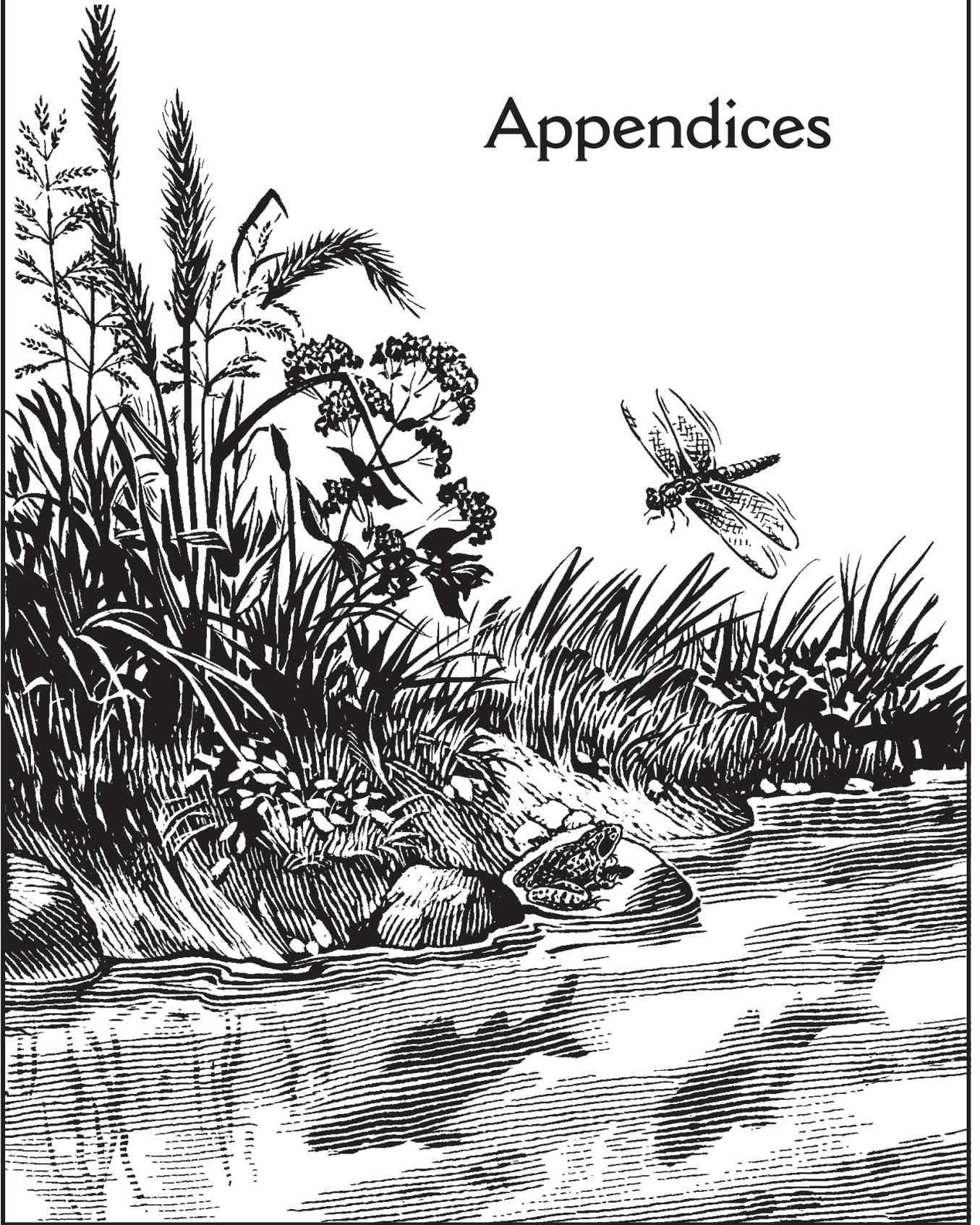


SHARE YOUR EXPERIENCE

No one wants to reinvent the wheel. If someone succeeds or fails in their effort, we want to know about it. **Floridians for a Sustainable Population** can be a clearing house to share your information with others. We urge you to keep us informed of your specific problem, what you did to address it, and how you succeeded.

One final note. Please remember that laws change and courts make different decisions. The information contained in this guide is accurate as of October 1998. We have tried to provide the "big picture" and direct you to key laws and cases. Now you need to use them to protect resources and existing water users in your own community. Good luck!

Appendices



403.412 Environmental Protection Act.—

(1) This section shall be known and may be cited as the “Environmental Protection Act of 1971.”

(2)(a) The Department of Legal Affairs, any political subdivision or municipality of the state, or a citizen of the state may maintain an action for injunctive relief against:

1. Any governmental agency or authority charged by law with the duty of enforcing laws, rules, and regulations for the protection of the air, water, and other natural resources of the state to compel such governmental authority to enforce such laws, rules, and regulations;

2. Any person, natural or corporate, or governmental agency or authority to enjoin such persons, agencies, or authorities from violating any laws, rules, or regulations for the protection of the air, water, and other natural resources of the state.

(b) In any suit under paragraph (a), the Department of Legal Affairs may intervene to represent the interests of the state.

(c) As a condition precedent to the institution of an action pursuant to paragraph (a), the complaining party shall first file with the governmental agencies or authorities charged by law with the duty of regulating or prohibiting the act or conduct complained of a verified complaint setting forth the facts upon which the complaint is based and the manner in which the complaining party is affected. Upon receipt of a complaint, the governmental agency or authority shall forthwith transmit, by registered or certified mail, a copy of such complaint to those parties charged with violating the laws, rules, and regulations for the protection of the air, water, and other natural resources of the state. The agency receiving such complaint shall have 30 days after the receipt thereof within which to take appropriate action. If such action is not taken within the time prescribed, the complaining party may institute the judicial proceedings authorized in paragraph (a). However, failure to comply with this subsection shall not bar an action for a temporary restraining order to prevent immediate and irreparable harm from the conduct or activity complained of.

(d) In any action instituted pursuant to paragraph (a), the court, in the interest of justice, may add as party defendant any governmental agency or authority charged with the duty of enforcing the applicable laws, rules, and regulations for the protection of the air, water, and other natural resources of the state.

(e) No action pursuant to this section may be maintained if the person (natural or corporate) or governmental agency or authority charged with pollution, impairment, or destruction of the air, water, or other natural resources of the state is acting or conducting operations pursuant to currently valid permit or certificate covering such operations, issued by the appropriate governmental authorities or agencies, and is complying with the requirements of said permits or certificates.

(f) In any action instituted pursuant to this section, other than an action involving a state NPDES permit authorized under s. 403.0885, the prevailing party or parties shall be entitled to costs and attorney’s fees. Any award of attorney’s fees in an action involving such a state NPDES permit shall be discretionary with the court. If the court has reasonable ground to doubt the solvency of the plaintiff or the plaintiff’s ability to pay any cost or judgment which might be rendered against him or her in an action brought under this section, the court may order the plaintiff to post a good and sufficient surety bond or cash.

(3) The court may grant injunctive relief and impose conditions on the defendant which are consistent with and in accordance with law and any rules or regulations adopted by any state or local governmental agency which is charged to protect the air, water, and other natural resources of the state from pollution, impairment, or destruction.

(4) The doctrines of res judicata and collateral estoppel shall apply. The court shall make such orders as necessary to avoid multiplicity of actions.

(5) In any administrative, licensing, or other proceedings authorized by law for the protection of the air, water, or other natural resources of the state from pollution, impairment, or destruction, the Department of Legal Affairs, a political subdivision or municipality of the state, or a citizen of the state shall have standing to intervene as a party on the filing of a verified pleading asserting that the activity, conduct, or product to be licensed or permitted has or will have the effect of impairing, polluting, or otherwise injuring the air, water, or other natural resources of the state.

(6) Venue of any causes brought under this law shall lie in the county or counties wherein the cause of action is alleged to have occurred.

History.—ss. 1, 2, 3, 4, 5, 6, ch. 71-343; s. 24, ch. 88-393; s. 10, ch. 97-103.

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.

The minimum flow and minimum water level shall be calculated by the department and the governing board using the best information available. When appropriate, minimum flows and levels may be calculated to reflect seasonal variations. The department and the governing board shall also consider, and at their discretion may provide for, the protection of nonconsumptive uses in the establishment of minimum flows and levels.

(2) By July 1, 1996, the Southwest Florida Water Management District shall amend and submit to the department for review and approval its priority list for the establishment of minimum flows and levels and delineating the order in which the governing board shall establish the minimum flows and levels for surface watercourses, aquifers, and surface water in the counties of Hillsborough, Pasco, and Pinellas. By November 15, 1997, and annually thereafter, each water management district shall submit to the department for review and approval a priority list and schedule for the establishment of minimum flows and levels for surface watercourses, aquifers, and surface waters within the district. The priority list shall also identify those water bodies for which the district will voluntarily undertake independent scientific peer review. By January 1, 1998, and annually thereafter, each water management district shall publish its approved priority list and schedule in the Florida Administrative Weekly. The priority list shall be based upon the importance of the waters to the state or region and the existence of or potential for significant harm to the water resources or ecology of the state or region, and shall include those waters which are experiencing or may reasonably be expected to experience adverse impacts. The priority list and schedule shall not be subject to any proceeding pursuant to chapter 120. Except as provided in subsection (3), the development of a priority list and compliance with the schedule for the establishment

of minimum flows and levels pursuant to this subsection shall satisfy the requirements of subsection (1).

(3) Minimum flows or levels for priority waters in the counties of Hillsborough, Pasco, and Pinellas shall be established by October 1, 1997. Where a minimum flow or level for the priority waters within those counties has not been established by the applicable deadline, the secretary of the department shall, if requested by the governing body of any local government within whose jurisdiction the affected waters are located, establish the minimum flow or level in accordance with the procedures established by this section. The department's reasonable costs in establishing a minimum flow or level shall, upon request of the secretary, be reimbursed by the district.

(4)(a) Upon written request to the department or governing board by a substantially affected person, or by decision of the department or governing board, prior to the establishment of a minimum flow or level and prior to the filing of any petition for administrative hearing related to the minimum flow or level, all scientific or technical data, methodologies, and models, including all scientific and technical assumptions employed in each model, used to establish a minimum flow or level shall be subject to independent scientific peer review. Independent scientific peer review means review by a panel of independent, recognized experts in the fields of hydrology, hydrogeology, limnology, biology, and other scientific disciplines, to the extent relevant to the establishment of the minimum flow or level.

(b) If independent scientific peer review is requested, it shall be initiated at an appropriate point agreed upon by the department or governing board and the person or persons requesting the peer review. If no agreement is reached, the department or governing board shall determine the appropriate point at which to initiate peer review. The members of the peer review panel shall be selected within 60 days of the point of initiation by agreement of the department or governing board and the person or persons requesting the peer review. If the panel is not selected within the 60-day period, the time limitation may be waived upon the agreement of all parties. If no waiver occurs, the department or governing board may proceed to select the peer review panel. The cost of the peer review shall be borne equally by the district and each party requesting the peer review, to the extent

economically feasible. The panel shall submit a final report to the governing board within 120 days after its selection unless the deadline is waived by agreement of all parties. Initiation of peer review pursuant to this paragraph shall toll any applicable deadline under chapter 120 or other law or district rule regarding permitting, rulemaking, or administrative hearings, until 60 days following submittal of the final report. Any such deadlines shall also be tolled for 60 days following withdrawal of the request or following agreement of the parties that peer review will no longer be pursued. The department or the governing board shall give significant weight to the final report of the peer review panel when establishing the minimum flow or level.

(c) If the final data, methodologies, and models, including all scientific and technical assumptions employed in each model upon which a minimum flow or level is based, have undergone peer review pursuant to this subsection, by request or by decision of the department or governing board, no further peer review shall be required with respect to that minimum flow or level.

(d) No minimum flow or level adopted by rule or formally noticed for adoption on or before May 2, 1997, shall be subject to the peer review provided for in this subsection.

(5) If a petition for administrative hearing is filed under chapter 120 challenging the establishment of a minimum flow or level, the report of an independent scientific peer review conducted under subsection (4) is admissible as evidence in the final hearing, and the administrative law judge must render the order within 120 days after the filing of the petition. The time limit for rendering the order shall not be extended except by agreement of all the parties. To the extent that the parties agree to the findings of the peer review, they may stipulate that those findings be incorporated as findings of fact in the final order.

History.—s. 6, part I, ch. 72-299; s. 2, ch. 73-190; s. 2, ch. 96-339; s. 5, ch. 97-160.

¹Note.—Section 28, ch. 97-160, provides that “[n]othing in sections 5 and 6 of this act shall be construed to:

“(1) Modify the order or dates by which the Southwest Florida Water Management District will establish minimum flows and levels for water bodies in Hillsborough, Pasco, and Pinellas counties as listed pursuant to chapter 96-339, Laws of Florida.

“(2) Modify the peer review process for the establishment of minimum flows and levels in Hillsborough, Pasco, and Pinellas counties created by chapter 96-339, Laws of Florida.

“As it relates only to the counties of Hillsborough, Pasco, and Pinellas, in the event of conflict between section 373.0421 (2), Florida Statutes, created by this act and statutory and case law existing immediately prior to the effective date of this act, the prior law shall govern; provided, however, that the establishment and implementation of minimum flows for the Hillsborough River and the Palm River/Tampa By-Pass Canal shall be governed by sections 5 and 6 of this act.”

Note.—Former s. 373.036(7).

373.0421 Establishment and implementation of minimum flows and levels.—**(1) ESTABLISHMENT.—**

(a) Considerations.—When establishing minimum flows and levels pursuant to s. 373.042, the department or governing board shall consider changes and structural alterations to watersheds, surface waters, and aquifers and the effects such changes or alterations have had, and the constraints such changes or alterations have placed, on the hydrology of an affected watershed, surface water, or aquifer, provided that nothing in this paragraph shall allow significant harm as provided by s. 373.042(1) caused by withdrawals.

(b) Exclusions.—

1. The Legislature recognizes that certain water bodies no longer serve their historical hydrologic functions. The Legislature also recognizes that recovery of these water bodies to historical hydrologic conditions may not be economically or technically feasible, and that such recovery effort could cause adverse environmental or hydrologic impacts. Accordingly, the department or governing board may determine that setting a minimum flow or level for such a water body based on its historical condition is not appropriate.

2. The department or the governing board is not required to establish minimum flows or levels pursuant to s. 373.042 for surface water bodies less than 25 acres in area, unless the water body or bodies, individually or cumulatively, have significant economic, environmental, or hydrologic value.

3. The department or the governing board shall not set minimum flows or levels pursuant to s. 373.042 for surface water bodies constructed prior to the requirement for a permit, or pursuant to an exemption, a permit, or a reclamation plan which regulates the size, depth, or function of the surface water body under the provisions of this chapter, chapter 378, or chapter 403, unless the constructed surface water body is of significant hydrologic value or is an essential element of the water resources of the area.

The exclusions of this paragraph shall not apply to the Everglades Protection Area, as defined in s. 373.4592(2)(h).

(2) If the existing flow or level in a water body is below, or is projected to fall within 20 years below, the applicable minimum flow or level established pursuant to s. 373.042, the department or governing board, as part of the regional water supply plan described in s. 373.0361, shall expeditiously implement a recovery or prevention strategy, which includes the development of additional water supplies

and other actions, consistent with the authority granted by this chapter, to:

(a) Achieve recovery to the established minimum flow or level as soon as practicable; or

(b) Prevent the existing flow or level from falling below the established minimum flow or level.

The recovery or prevention strategy shall include phasing or a timetable which will allow for the provision of sufficient water supplies for all existing and projected reasonable-beneficial uses, including development of additional water supplies and implementation of conservation and other efficiency measures concurrent with, to the extent practical, and to offset, reductions in permitted withdrawals, consistent with the provisions of this chapter.

(3) The provisions of this section are supplemental to any other specific requirements or authority provided by law. Minimum flows and levels shall be reevaluated periodically and revised as needed.

History.—s. 6, ch. 97-160.

¹Note.—Section 28, ch. 97-160, provides that “[n]othing in sections 5 and 6 of this act shall be construed to:

“(1) Modify the order or dates by which the Southwest Florida Water Management District will establish minimum flows and levels for water bodies in Hillsborough, Pasco, and Pinellas counties as listed pursuant to chapter 96-339, Laws of Florida.

“(2) Modify the peer review process for the establishment of minimum flows and levels in Hillsborough, Pasco, and Pinellas counties created by chapter 96-339, Laws of Florida.

“As it relates only to the counties of Hillsborough, Pasco, and Pinellas, in the event of conflict between section 373.0421(2), Florida Statutes, created by this act and statutory and case law existing immediately prior to the effective date of this act, the prior law shall govern; provided, however, that the establishment and implementation of minimum flows for the Hillsborough River and the Palm River/Tampa By-Pass Canal shall be governed by sections 5 and 6 of this act.”

373.019 Definitions.—When appearing in this chapter or in any rule, regulation, or order adopted pursuant thereto, the following words shall, unless the context clearly indicates otherwise, mean:

(1) “Coastal waters” means waters of the Atlantic Ocean or the Gulf of Mexico within the jurisdiction of the state.

(2) “Department” means the Department of Environmental Protection or its successor agency or agencies.

(3) “District water management plan” means the regional water resource plan developed by a governing board under s. 373.036.

(4) “Domestic use” means the use of water for the individual personal household purposes of drinking, bathing, cooking, or sanitation. All other uses shall not be considered domestic.

(5) “Florida water plan” means the state-level water resource plan developed by the department under s. 373.036.

(6) “Governing board” means the governing board of a water management district.

(7) “Groundwater” means water beneath the surface of the ground, whether or not flowing through known and definite channels.

(8) “Impoundment” means any lake, reservoir, pond, or other containment of surface water occupying a bed or depression in the earth’s surface and having a discernible shoreline.

(9) “Independent scientific peer review” means the review of scientific data, theories, and methodologies by a panel of independent, recognized experts in the fields of hydrology, hydrogeology, limnology, and other scientific disciplines relevant to the matters being reviewed under s. 373.042.

(10) “Nonregulated use” means any use of water which is exempted from regulation by the provisions of this chapter.

(11) “Other watercourse” means any canal, ditch, or other artificial watercourse in which water usually flows in a defined bed or channel. It is not essential that the flowing be uniform or uninterrupted.

(12) “Person” means any and all persons, natural or artificial, including any individual, firm, association, organization, partnership, business trust, corporation, company, the United States of America, and the state and all political subdivisions, regions, districts, municipalities, and public agencies thereof. The enumeration herein is not intended to be exclusive or exhaustive.

(13) “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.

(14) “Regional water supply plan” means a detailed water supply plan developed by a governing board under s. 373.0361.

(15) “Stream” means any river, creek, slough, or natural watercourse in which water usually flows in a defined bed or channel. It is not essential that the flowing be uniform or uninterrupted. The fact that some part of the bed or channel has been dredged or improved does not prevent the watercourse from being a stream.

(16) “Surface water” means water upon the surface of the earth, whether contained in bounds created naturally or artificially or diffused. Water from natural springs shall be classified as surface water when it exits from the spring onto the earth’s surface.

(17) “Water” or “waters in the state” means any and all water on or beneath the surface of the ground or in the atmosphere, including natural or artificial watercourses, lakes, ponds, or diffused surface water and water percolating, standing, or flowing beneath the surface of the ground, as well as all coastal waters within the jurisdiction of the state.

(18) “Water management district” means any flood control, resource management, or water management district operating under the authority of this chapter.

(19) “Water resource development” means the formulation and implementation of regional water resource management strategies, including the collection and evaluation of surface water and groundwater data; structural and nonstructural programs to protect and manage water resources; the development of regional water resource implementation programs; the construction, operation, and maintenance of major public works facilities to provide for flood control, surface and underground water storage, and groundwater recharge augmentation; and related technical assistance to local governments and to government-owned and privately owned water utilities.

(20) “Water resource implementation rule” means the rule authorized by s. 373.036, which sets forth goals, objectives, and guidance for the development and review of programs, rules, and plans relating to water resources, based on statutory policies and directives. The waters of the state are among its most basic resources. Such waters should be managed to

conserve and protect water resources and to realize the full beneficial use of these resources.

(21) "Water supply development" means the planning, design, construction, operation, and maintenance of public or private facilities for water collection, production, treatment, transmission, or distribution for sale, resale, or end use.

(22) For the sole purpose of serving as the basis for the unified statewide methodology adopted pursuant to s. 373.421(1), as amended, "wetlands" means those areas that are inundated or saturated by surface water or groundwater at a frequency and a duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soils. Soils present in wetlands generally are classified as hydric or alluvial, or possess characteristics that are associated with reducing soil conditions. The prevalent vegetation in wetlands generally consists of facultative or obligate hydrophytic macrophytes that are typically adapted to areas having soil conditions described above. These species, due to morphological, physiological, or reproductive adaptations, have the ability to grow, reproduce, or persist in aquatic environments or anaerobic soil conditions. Florida wetlands generally include swamps, marshes, bayheads, bogs, cypress domes and strands, sloughs, wet prairies, riverine swamps and marshes, hydric seepage slopes, tidal marshes, mangrove swamps and other similar areas. Florida wetlands generally do not include longleaf or slash pine flatwoods with an understory dominated by saw palmetto. Upon legislative ratification of the methodology adopted pursuant to s. 373.421(1), as amended, the limitation contained herein regarding the purpose of this definition shall cease to be effective.

(23) "Works of the district" means those projects and works, including, but not limited to, structures, impoundments, wells, streams, and other watercourses, together with the appurtenant facilities and accompanying lands, which have been officially adopted by the governing board of the district as works of the district.

History.—s. 3, part I, ch. 72-299; s. 37, ch. 79-65; s. 1, ch. 80-259; s. 5, ch. 82-101; s. 6, ch. 89-279; s. 21, ch. 93-213; s. 15, ch. 94-122; s. 251, ch. 94-356; s. 1, ch. 96-339; s. 1, ch. 96-370; s. 2, ch. 97-160.

NAMES AND LOCATIONS OF FLORIDA REGIONAL WATER MANAGEMENT DISTRICTS

Northwest Florida Water Management District

Route 1, Box 3100
Havana, Florida 32333-9700
www.state.fl.us/nwfwmd
850/539-5999

Douglas E. Barr
Executive Director

Suwannee River Water Management District

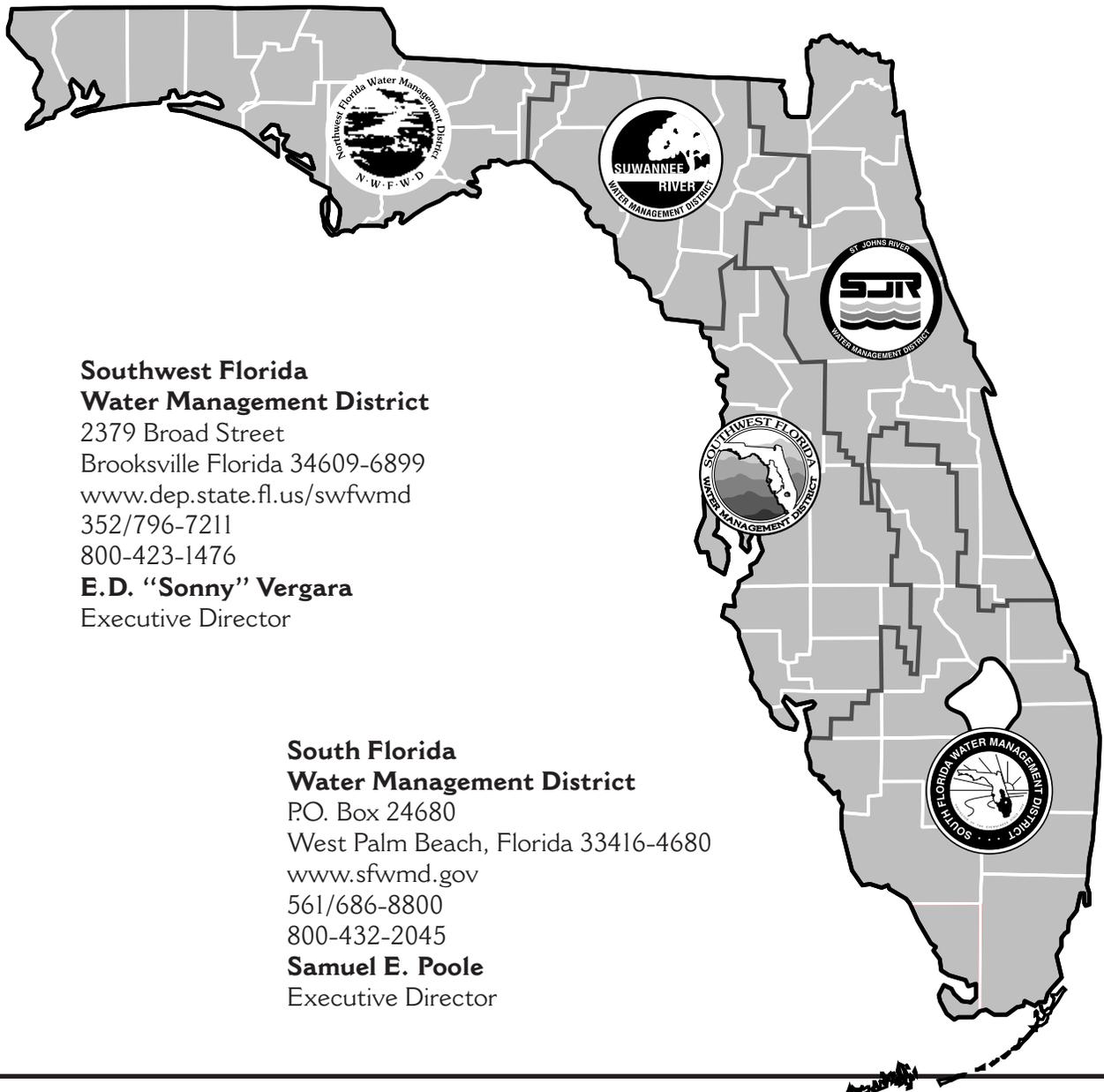
Route 3, Box 64
Live Oak, Florida 32060-9573
904/362-1001

Jerry A. Scarborough
Executive Director

St. Johns River Water Management District

P.O. Box 1429
Palatka, Florida 32178-1429
<http://sjr.state.fl.us>
904/329-4500

Henry Dean
Executive Director



Southwest Florida Water Management District

2379 Broad Street
Brooksville Florida 34609-6899
www.dep.state.fl.us/swfwmd
352/796-7211
800-423-1476

E.D. "Sonny" Vergara
Executive Director

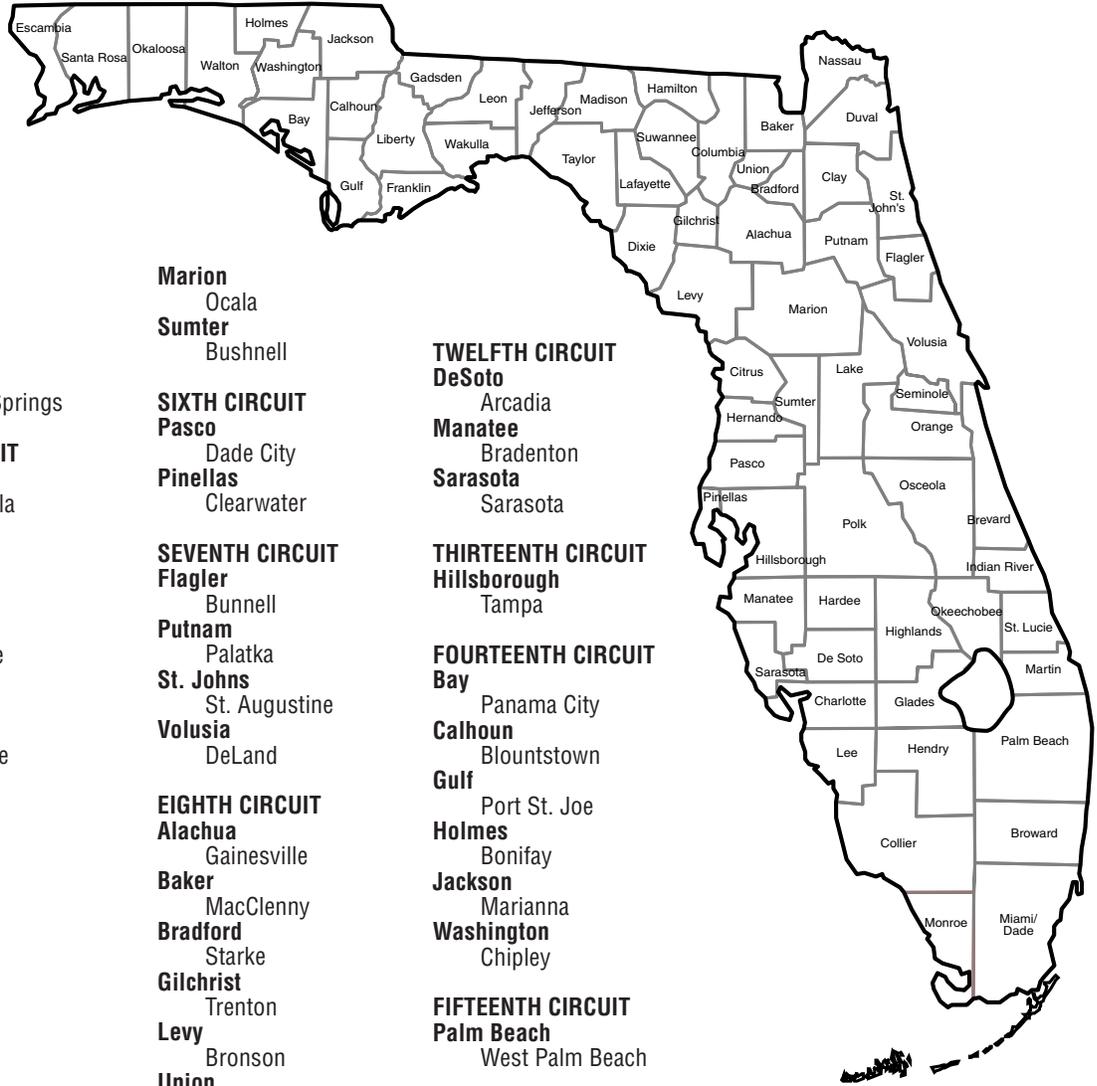
South Florida Water Management District

P.O. Box 24680
West Palm Beach, Florida 33416-4680
www.sfwmd.gov
561/686-8800
800-432-2045

Samuel E. Poole
Executive Director

FLORIDA JUDICIAL CIRCUITS

COUNTIES/COUNTY SEATS



FIRST CIRCUIT

- Escambia**
Pensacola
- Okaloosa**
Crestview
- Santa Rosa**
Milton
- Walton**
DeFuniak Springs

SECOND CIRCUIT

- Franklin**
Apalachicola
- Gadsden**
Quincy
- Jefferson**
Monticello
- Leon**
Tallahassee
- Liberty**
Bristol
- Wakulla**
Crawforville

THIRD CIRCUIT

- Columbia**
Lake City
- Dixie**
Cross City
- Hamilton**
Jasper
- Lafayette**
Mayo
- Madison**
Madison
- Suwannee**
Live Oak
- Taylor**
Perry

FOURTH CIRCUIT

- Duval**
Jacksonville
- Clay**
Green Cove Springs
- Nassau**
Fernandina Beach

FIFTH CIRCUIT

- Citrus**
Inverness
- Hernando**
Brooksville
- Lake**
Tavares

Marion

- Ocala
- Sumter**
Bushnell

SIXTH CIRCUIT

- Pasco**
Dade City
- Pinellas**
Clearwater

SEVENTH CIRCUIT

- Flagler**
Bunnell
- Putnam**
Palatka
- St. Johns**
St. Augustine
- Volusia**
DeLand

EIGHTH CIRCUIT

- Alachua**
Gainesville
- Baker**
MacClenny
- Bradford**
Starke
- Gilchrist**
Trenton
- Levy**
Bronson
- Union**
Lake Butler

NINTH CIRCUIT

- Orange**
Orlando
- Osceola**
Kissimmee

TENTH CIRCUIT

- Hardee**
Wauchula
- Highlands**
Sebring
- Polk**
Bartow

ELEVENTH CIRCUIT

- Dade**
Miami

TWELFTH CIRCUIT

- DeSoto**
Arcadia
- Manatee**
Bradenton
- Sarasota**
Sarasota

THIRTEENTH CIRCUIT

- Hillsborough**
Tampa
- FOURTEENTH CIRCUIT**
- Bay**
Panama City

- Calhoun**
Blountstown

Gulf

- Port St. Joe
- Holmes**
Bonifay
- Jackson**
Marianna
- Washington**
Chipley

FIFTEENTH CIRCUIT

- Palm Beach**
West Palm Beach

SIXTEENTH CIRCUIT

- Monroe**
Key West

SEVENTEENTH CIRCUIT

- Broward**
Ft. Lauderdale

EIGHTEENTH CIRCUIT

- Brevard**
Titusville
- Seminole**
Sanford

NINETEENTH CIRCUIT

- Indian River**
Vero Beach
- Martin**
Stuart

Okeechobee

- Okeechobee
- St. Lucie**
Ft. Pierce

TWENTIETH CIRCUIT

- Charlotte**
Punta Gorda
- Collier**
Naples
- Glades**
Moore Haven
- Hendry**
LaBelle
- Lee**
Ft. Myers

WATER MANAGEMENT DISTRICT DOCUMENTS

ANNUAL REPORT

If your water management district publishes an Annual Report, get copies of the three most recent years. This is an excellent starting point. It usually has a history of the agency, information about key staff and agency structure, board membership, major projects and some budget information.

DISTRICT WATER MANAGEMENT PLAN

Each water management district must prepare a plan to comply with Section 373.036, Florida Statutes. It is a comprehensive document which examines the issues of water supply, flood protection, water quality, and natural systems management and provides long-term guidance for action. The format should include information about the district's history, water resources, water use, water management goals and responsibilities.

STRATEGIC PLAN

Your water management district may have a Strategic Plan which focuses on the highest priority issues for a defined period of time. For example, the South Florida Water Management District released its Strategic Plan for the 1990s in January 1994. It describes the priority issues identified by the governing board and senior management for a 2 to 5 year time horizon.

REGIONAL WATER SUPPLY PLAN

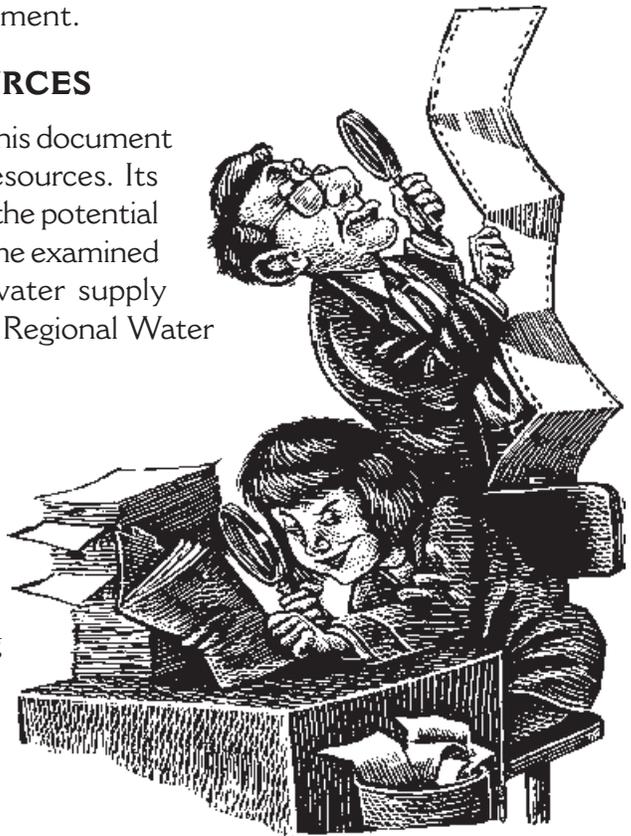
Your water management district may be divided into regions which represent areas displaying similarities in development patterns, degree of urbanization and common water management issues and concerns. This document will identify specific tasks or objectives for water supply planning and provide a time line for their accomplishment.

WATER SUPPLY NEEDS AND SOURCES

Your water management district may have prepared this document to examine the water supply needs and available resources. Its purpose is to identify areas where water demand has the potential of outstripping available resources within the time frame examined and to make recommendations to avoid critical water supply problems. It should be read in conjunction with the Regional Water Supply Plan.

COUNTY WATER SUPPLY PLAN

This document will contain more area-specific information than the Regional Water Supply Plan. It is designed to provide a common set of data, assumptions, and solutions to support water management district regulatory and planning programs, local government comprehensive and utility planning processes, and land use decisions. It should include information about current water demands, future water demands, water supply constraints, and potential alternatives.



MINIMUM WATER LEVEL CRITERIA

This may be a draft document and it may only be “proposed” minimum water level criteria. It describes the methods and technical criteria used to develop the minimum flows and levels, identifies the priority water bodies, and provides a schedule for establishing the levels for priority water bodies within the district.

MANAGEMENT OF WATER USE - PERMITTING INFORMATION

Everything you would want to know about regulating water use can be found in this manual. Whether you want to review the water management district’s rules which are found in Chapters 40E-2 and 40E-20, Florida Administrative Code, or the procedure for processing water use permit applications, this is where the information is located.

FLORIDA WATER

Florida Water is a biannual magazine published by the five water management districts. Its purpose is to generate awareness of the need to conserve water and protect state water resources and dependent natural ecosystems.

Joyce Tarnow

531 E. McNab Road
Pompano Beach, Florida 33060

(954) 942-7278

CERTIFIED MAIL -
RETURN RECEIPT REQUESTED

June 17, 1998

Samuel F. Poole, III
Executive Director
South Florida Water Management District
3301 Gun Club Road
West Palm Beach, Florida 33406

Re: Water Withdrawal Violations, Pompano Beach, Florida

Dear Mr. Poole:

Enclosed herewith please find an original and one copy
of my Verified Complaint Pursuant to Section 403.412(1)(c),
Florida Statutes.

Sincerely,



Joyce Tarnow Tarnow
531 E. McNab Road
Pompano Beach, Florida 33060

SAMPLE TRANSMITTAL LETTER WITH VERIFIED COMPLAINT TO AGENCY

STATE OF FLORIDA
SOUTH FLORIDA WATER MANAGEMENT DISTRICT

JOYCE TARNOW
Petitioner

RE: WELLFIELD WITHDRAWAL VIOLATIONS
CITY OF POMPANO BEACH, FLORIDA
Pending Application #920619-5

SOUTH FLORIDA WATER MANAGEMENT DISTRICT
Respondent

_____/.

VERIFIED COMPLAINT PURSUANT TO SECTION 403.412(1)(c), F.S.

COMES NOW Joyce Tarnow to file this Verified Complaint pursuant to Section 403.412 (1)(c), Florida Statutes, and in support thereof would state:

1. The Complainant, Joyce Tarnow, has lived in the City of Pompano Beach, Florida for the past twenty-three years, residing at 531 E. McNab Road, Pompano Beach, 33060.

2. The continued enjoyment of the complainants home-
stead and the continued access to healthy, potable water in
adequate quantity and at reasonable cost is jeopardized by
the city's excessive withdrawal of water from its wellfields
at Pompano Air Park.

3. The agency charged by law with the duty of regulating
or prohibiting the conduct complained of in this instance is
the South Florida Water Management District, 3301 Gun Club Road,
West Palm Beach, Fl. 33406.

4. This complaint involves the failure of the South
Florida Water Management District to compel the City of Pompano

Beach to abide by the permitting specifications of its water use permit.

5. The South Florida Water Management District is responsible for providing assurances that a specific volume of water will be available for a reasonable demand throughout the duration of the permit without resulting in harm to the water resources or other existing legal users.

6. On February 14, 1991, the District issued the City a one-year permit conditioned to require the City to evaluate their long-term water supply situation and to come up with a capital and operational plan to meet their future demands without causing saltwater intrusion or other harm to existing users of the water resources.

7. The City allowed the permit to expire on February 14, 1992 and did not file for a new permit until June 19, 1992 and an acceptable long-term water supply plan was not included.

8. District staff issued a request for additional information on July 17, 1992 regarding a number of issues including saltwater intrusion, movement of contaminants, reasonable demands, and impacts to wetlands.

9. Consultants for the City requested extensions of the deadline to complete computer modeling needed for their response. Two years later, the City submitted a response on June 15, 1994, in which the consultants proposed continued withdrawals from the Airport wellfield at a rate that would have caused saltwater to continue to move towards the wellfield. This proposal did not meet District permitting criteria.

10. In January 1997, after two more years of one delay after another, and in response to years of wellfield operation without a permit, and in light of dry conditions and the threat of additional saltwater movement into the Airport wellfield, the District issued a "Respond or Deny" letter to the City. This letter requires the applicant to resolve the pending application or staff will recommend the Governing Board deny the application.

11. In February 1997, the District issued a "Notice of Violation" to the City for withdrawals without a permit. This violation remains unresolved at this time.

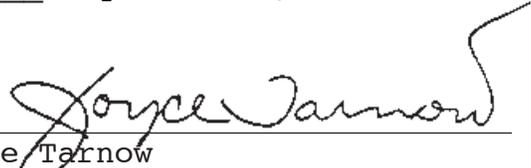
12. During these years of violation, 1991, 1992, 1993, 1994, 1995, 1996 and 1997, the City has continued to issue hundreds of building permits for new dwelling units, adding thousands more water users to an already endangered wellfield.

13. The City has now outlined a plan that will take about four years to complete. The plan includes additional reliance on the Palm Aire Wellfield which has a much lower quality of water and which will require much more complicated and expensive treatment.

14. In view of the non-compliance of the City over several years and the continued addition of more users while in violation, no further delay should be tolerated. Other communities adjacent to Pompano Beach are facing the same crisis in water demand and are similarly injured by over-consumption of the resource.

15. Complainant demands that the South Florida Water Management District pursue enforcement immediately on the City of Pompano Beach.

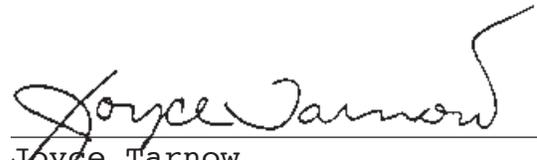
RESPECTFULLY SUBMITTED, this 17th day of June, 1998.



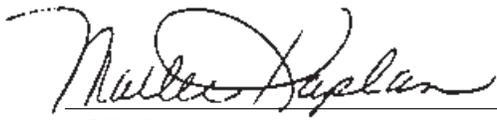
Joyce Tarnow
531 E. McNab Road
Pompano Beach, Fl. 33060
(954) 942-7278

VERIFICATION

BEFORE ME, this 17th day of June, 1998, appeared Joyce Tarnow, known to me to be a resident of the City of Pompano Beach, Fl., who having been duly sworn, did state that the factual allegations contained in the foregoing Verified Complaint, filed pursuant to Section 403.412 (2)(c) Florida Statutes, are true and correct to the best of her knowledge and belief.



Joyce Tarnow



NOTARY



Marlee Kaplan
MY COMMISSION # CC724407 EXPIRES
April 26, 1999
BONDED THRU TROY FAH INSURANCE, INC.

IN THE CIRCUIT COURT FOR THE SEVENTEENTH JUDICIAL CIRCUIT
IN AND FOR BROWARD COUNTY, FLORIDA

FLORIDIANS FOR A SUSTAINABLE :
POPULATION, :
 :
Plaintiff, :
 :
VS. : Case No:
 :
SOUTH FLORIDA WATER MANAGEMENT : **COMPLAINT**
DISTRICT, :
 :
 :
Defendant. :

COMES NOW Plaintiff, FLORIDIANS FOR A SUSTAINABLE
POPULATION, a Florida corporation, pursuant to Section 403.412,
Florida Statutes, and sues the SOUTH FLORIDA WATER MANAGEMENT
DISTRICT, Defendant, for a mandatory and prohibitory injunction,
and states as follows:

STATEMENT OF FACTS

1. FLORIDIANS FOR A SUSTAINABLE POPULATION is a Florida
corporation and a citizen of the State of Florida whose members
reside within the region where the responsibility to manage and
preserve the State's water resources has been delegated to the
SOUTH FLORIDA WATER MANAGEMENT DISTRICT (hereafter referred to as
"the District")

2. In 1972, the Florida Legislature passed the Florida Water
Resources Act. Ch. 72-299, Laws of Fla., now codified as Section
373.016, Fla. Stat. (1998). There, the Legislature expressly
recognized that:

(1) The waters in the state are among its
basic resources. Such waters have not
heretofore been conserved or fully controlled
so as to realize their full beneficial use.

(2) The department and the governing board shall take into account cumulative impacts on water resources and manage those resources in a manner to ensure their sustainability.

(3) It is further declared to be the policy of the Legislature:

(a) To provide for the management of water and related land resources;

(b) To promote the conservation, replenishment, recapture, enhancement, development, and proper utilization of surface and ground water;

(g) To preserve natural resources, fish, and wildlife;

(i) To promote recreational development, protect public lands, and assist in maintaining the navigability of rivers and harbors; and

(j) Otherwise to promote the health, safety, and general welfare of the people of this state.

3. In order to insure that the policy of the Act was properly carried out, the Legislature directed that:

(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 surface water at which further withdrawals would be significantly harmful to the water resources of the area.

Fla. Stat. Section 373.042 (1998)

4. These minimum flows and levels are a bottom line defense designed to insure that no consumptive uses of water could be permitted that could harm the hydrological and ecological resources of the area.

5. For this reason, the Legislature made the District's establishment of minimum flows and levels mandatory.

6. The District has not only the authority but the duty to issue permits for the consumptive use of water only where it is assured that such use is not harmful to the water resources of the area, does not interfere with any presently existing use of water, and is consistent with the public interest. Sections 373.219, 373.223, Fla. Stat. (1998).

7. Ground water is the primary source of freshwater supply for the City of Pompano Beach (hereafter referred to as "the City") which is located within the District. Ground water dependence is allowed by the productivity of the aquifer underlying the region and the surface water recharge provided by the Central & Southern Florida Project (for flood control and other purposes). The Biscayne Aquifer currently provides the ground water for the City's wellfields.

8. The District has proposed draft minimum water levels for the Biscayne Aquifer. The administrative process will require scientific peer review to ensure technical soundness of the data, conclusions and proposed criteria. Modifications that result from the peer review will be incorporated into the criteria and rulemaking will then be initiated. This is a lengthy process so that full participation by interested and affected parties is

provided.

9. The District has allowed the City to operate without a consumptive use permit since 1992 contrary to Section 373.219, Fla. Stat. (1998). While the City has filed for a new consumptive use permit, it has repeatedly failed to provide required information to enable the District to evaluate and process the application. Meanwhile the City has continued issuing building permits which intensify the demands upon the water resources.

10. Without minimum levels, the District has no sufficient basis on which to determine whether a consumptive use permit will harm the aquifer or ecological resources of the area.

11. Consequently, the District has permitted excessive water withdrawals by the City which have damaged the water resources and ecology of the District.

12. As a result, the Plaintiff has been irreparably injured and has no adequate remedy at law.

13. Saltwater intrusion is moving closer to the City's eastern wellfield. Saltwater intrusion causes significant and nearly permanent degradation of water resources. Plaintiff's members rely on this wellfield to provide water for their domestic needs. Their health and safety is being threatened. A copy of a map entitled, "Delineation of Saltwater Intrusion" prepared by Broward County Department of Natural Resource Protection is attached as Exhibit A. This contamination is the direct result of excessive withdrawal of water from the Biscayne Aquifer which the District has allowed. These withdrawals are

excessive because the District failed to establish minimum levels as required by Section 373.042, Fla. Stat. (1998)

14. Plaintiff's members recreate in Fern Forest, a wetlands park located near the City's western wellfield. The City intends to pump additional water from its western wellfield. Plaintiff's members know that this wellfield provides a lower quality of water which will require more expensive treatment. In addition, Plaintiff believes the additional pumping may cause a decrease in water available for Fern Forest which could permanently impair this natural resource.

15. The District is preparing to issue a five year consumptive use permit to the City without having the benefit of minimum level protection for the Biscayne Aquifer. In addition, the District does not intend to include permit conditions to adequately protect these resources from continued degradation or even expanded degradation.

16. Plaintiff has filed its Verified Complaint with the District as required by Section 403.412(2) (c), Fla. Stat. (1998). The District has had more than 30 days within which to take action, but has failed to so do. A copy of the Verified Complaint is attached as Exhibit B.

17. Plaintiff has retained the services of the undersigned counsel to represent it in this action and has agreed to pay counsel a reasonable attorney fee. Pursuant to Section 403 .412 (2) (f) , Plaintiff is entitled to an award of costs and attorney fees if Plaintiff prevails in this action.

WHEREFORE, Plaintiff requests a judgment:

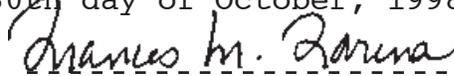
1. Enjoining the Defendant District from issuing a consumptive use permit to the City of Pompano Beach without including conditions for the protection of the Biscayne Aquifer and Fern Forest so that further withdrawals will not significantly harm these water and natural resources; or, in the alternative, mandating the Defendant District issue a consumptive use permit to the City of Pompano Beach with conditions for the protection of the Biscayne Aquifer and Fern Forest so that further withdrawals will not significantly harm these water and natural resources;

2. Awarding the Plaintiff a reasonable attorney fee;

3. Awarding the Plaintiff the costs of this suit; and

4. Awarding the Plaintiff any other and further relief that the court may deem proper.

Respectfully submitted this 30th day of October, 1998.



Frances M. Farina, Esquire
Attorney for Plaintiff
Fla. Bar No. 259497
7532 Fawn Court
Carmel, CA 93923
831/625-5544

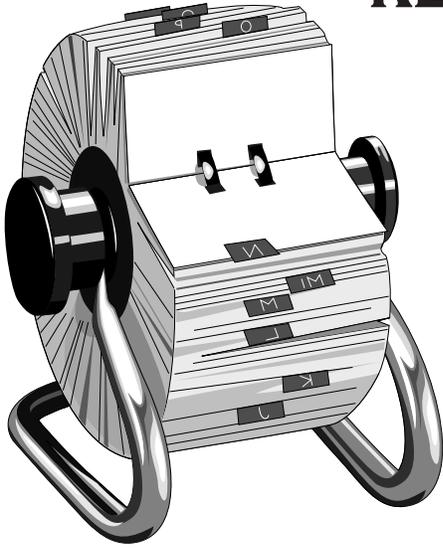
Under penalties of perjury, I declare that I have read the foregoing Complaint and that the facts stated in it are true to the best of my knowledge and belief.

FLORIDIANS FOR A SUSTAINABLE POPULATION

By: _____
Joyce Tarnow, President

This is a SAMPLE Complaint. Exhibits are not included.

RESOURCE LIST



Florida Audubon Society

1331 Palmetto Avenue #110
Winter Park 32789
407/539-5700
Charles Lee, Executive Vice President

Floridians for a Sustainable Population

531 E. McNab Road
Pompano Beach 33060
954/942-7278
Joyce Tarnow, President

Conservancy of Southwest Florida

1450 Merrihue Drive North
Naples 34102
941/262-0304
David Guggenheim, Esquire

Friends and Citizens of Crystal Springs

P.O. Box 700
Crystal Springs 33524
813/780-6325
Patricia Burke

The Conservation Fund

4400 PGA Boulevard #900
Palm Beach Gardens 33410
561/624-4927
Beth Shields

Friends of the Everglades

244-A Westward Drive
Miami Springs 33166
305/885-6210
Joe Podgor

Earth Justice Legal Defense Fund

P.O. Box 1329
Tallahassee 32302
850/681-0031
David Guest, Esquire
Ansley Samson, Esquire

John S. Glenn

Aquatic Preserve Committee
Florida Chapter, Sierra Club
214 N. 17th Street
Fernandina Beach 32034
904/261-9468

Environmental Confederation of Southwest Florida

Becky Ayech
421 Verna Road
Sarasota 34240
941/322-2164

Grant Expertise

Fran Stallings
9835 Delaware
Bonita Springs 34135
941/992-7832

Frances M. Farina, Esquire

7532 Fawn Court
Carmel, Ca. 93923
831/625-6475

Richard Grosso, Esquire

Nova Law Center
3301 College Avenue
Davie 33314
954/262-6140

Lake County Conservation Council

33428 Picciola Drive
Fruitland Park 34731
352/787-2303
Ann Griffin

Martin County Conservation Alliance

P.O. Box 1923
Stuart 34995
561/334-5627
Don Baker

Miami Herald Water Series

305/376-3719 \$10
Michael Browning
michael_c_browning@compuserv.com

1,000 Friends of Florida

P.O. Box 5948
Tallahassee 32314
850/222-6277
Terrell Arline, Esquire

**Public Employees for Environmental
Responsibility - PEER**

P.O. Box 4378
Tallahassee 32315
850/681-7825
Steven Medina, Esquire
Richard Windsor, Esquire

Tom Reese, Esquire

Manasota-88
2951 61st Avenue South
St. Petersburg 33712
813/867-8228

Southern Legal Counsel

1229 NW 12th Avenue
Gainesville 32601
352/955-2144
Jodi Seigel, Esquire



531 E. McNab Road, Pompano Beach, FL 33060