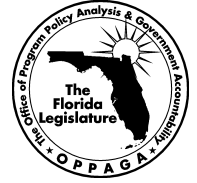




Office of Program Policy Analysis And Government Accountability



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Follow-Up Report on the Water Resources Management Program and the Consumptive Use Permitting Program

Abstract

- **Since the issuance of the OPPAGA reports, the Water Management Districts are continuing to make progress in establishing minimum flows and levels.**
- **Districts are making progress in improving integration of water resources and land use planning.**
- **However, although DEP and the WMDs agree that more consistency is needed in how they define unacceptable impacts to natural systems, they have not yet set statewide criteria.**

Purpose

In accordance with s 11.45(7)(f), F.S., this follow-up report describes actions taken by the Department of Environmental Protection and the five Water Management Districts in response to two prior OPPAGA reports; "Performance Review of the Consumptive Use Permitting Program administered by the Department of Environmental Protection and the Water Management Districts" 94-34 and "A Review of the Water Resources Management Program administered by the Department of Environmental Protection and the Water Management Districts" (94-17). This report presents our assessment of the extent to which these agencies have addressed our principal findings and recommendations.

Background

The Water Resources Management Program was created by the Florida Water Resources Act of 1972. The state's water resources objectives include providing for the management of water and related land resources; promoting the conservation, development, and proper use of surface and ground water; and preserving natural resources, fish and wildlife. The state's water resource management activities are performed by the Department of Environmental Protection (DEP) and the five Water Management Districts (WMDs). DEP has two primary statutory responsibilities; adopting a state water policy by rule, and developing the State Water Use Plan. Each WMD is responsible for completing three key requirements related to water resources planning; establishing minimum flows and levels, developing ground water basin resource availability inventories, and providing technical assistance and information to local governments for use in preparing local government comprehensive plans.

The Consumptive Use Permitting Program is a regulatory program also created by the 1972 Act (under Ch. 373, F.S.). DEP exercises "general supervisory authority" over the WMDs in the implementation of the Program. The purpose of the Program is to ensure that water use is consistent with the objectives of the Districts or the Department and is not harmful to the water resources in the area. This purpose is part of the overall goal of water resources programs established in the State Comprehensive Plan (Ch. 187, F.S.) to supply water for all competing uses deemed reasonable and beneficial and maintain the functions of natural systems. The Program represents a major component of WMD responsibilities.

Prior Findings

Minimum Flows and Levels Not Fully Developed

Both reports addressed the need for the WMDs to establish minimum flows and levels. Despite program requirements to establish minimum flows and levels and despite adverse impacts to ground and surface water bodies, none of the WMDs had fully established minimum flows and levels at the time of our reviews.¹ Although the WMDs had made some progress in completing these requirements, additional measures were needed to ensure this progress continues. We recommended that DEP establish, through State Water Policy, a requirement that WMDs submit a schedule with due dates for completing these activities. We further recommended after the Department reviews and approves the schedule, the Legislature also review, approve, and monitor the WMDs' adherence to the schedule.

Need for Greater Standardization in Defining Unacceptable Impacts to Natural Systems

Related to the minimum flows and levels issue was the need for greater standardization in how the WMDs define and measure what constitutes unacceptable impacts to natural systems. A method for defining unacceptable impacts is an integral part of the setting of minimum flows and levels and will expedite the process of defining water availability. Setting minimum flows and levels is a complex task that requires an individualized technical analysis of the water resource. Given this complexity, we recommended that this issue be addressed either through the convention committee process or through a similar working group.

Lack of Integration of Water Resources and Land Use Planning

We also found that water resources planning and land use planning were not sufficiently integrated to ensure that planned growth was compatible with available water supply. To improve integration of water resources planning and land use planning, we recommended that the WMDs coordinate more closely with local governments to ensure that local governments were aware of the limitations of current water supply sources in meeting future water supply needs.

¹ Minimum flows and levels for surface watercourses and minimum levels for groundwater in aquifers and surface waters represent the limits beyond which further water withdrawals are considered to be significantly harmful to water resources of the area (for both levels and flows) or the ecology of the area (for flows only).

Current Status

Actions to Address Minimum Flows and Levels

The Governor's Office, DEP, and the WMDs have made progress in addressing our concerns with minimum flows and levels. The WMDs have included schedules for establishing minimum flows and levels in their District Water Management Plans. In addition, the WMDs have established minimum flows and levels for some water bodies around the state.

Legislative Action. Although we recommended that the Legislature amend Ch. 373, F.S., and provide a schedule of completion dates for the establishment of minimum flows and levels, the 1996 Legislature focused its legislation on one District. Chapter 96-339, Laws of Florida, provides guidance, including explicit deadlines, for the Southwest Florida WMD to establish minimum flows and levels in Hillsborough, Pasco, and Pinellas counties. The 1996 legislation produced benefits for DEP and the other Districts. For example, the South Florida WMD reported that the legislative process helped create a consensus on several key issues pertaining to minimum flows and levels: the process for prioritization; consideration of existing hydrological alterations; and a process for scientific peer review.

Governor's Office Action. In March of 1996, Lt. Governor Buddy McKay issued a letter to the WMDs emphasizing the importance of establishing minimum flows and levels. The letter suggested that the districts reallocate resources to expedite establishment of minimum flows and levels for priority water bodies.

In addition, Governor Lawton Chiles signed executive order number 96-297 on September 30, 1996, directing the DEP "to work with the Water Management Districts to ensure that by November 15, 1996, and annually thereafter, each District submits to the Department a priority list and schedule for the establishment of minimum flows and levels for surface watercourses, aquifers, and surface waters within the District." The executive order also established the goal of completing minimum flows and levels for the initial priority list by the end of fiscal year 1999. The executive order also directed the Department to work with the Districts to help ensure comprehensive water supply planning by the Districts, for at least a 20-year planning period, which is done in coordination with land use planning.

Water Management District Action. The five WMDs have made varying efforts to establish minimum flows and levels.

South Florida WMD. The District has prepared a schedule of priority water bodies for which minimum flows and levels are going to be established and the year in which the work is to be completed. The water bodies to be addressed by the District include Lake Okeechobee, the Everglades National Park, the Biscayne and Floridan aquifers, and the Surficial Aquifer System. The schedule also includes a number of other lakes, estuaries, and bays located in the District. The District estimates it will spend about \$3 million through 1999 establishing minimum flows and levels in these water bodies.

Suwannee River WMD. The District is now in the fourth year of a seven-year program to develop minimum flows and levels for the Lower Suwannee River. The District plans to complete this project in the year 2000. The District focused on the lower Suwannee River and its estuary because of the importance of the river to the region and the threat of interdistrict water transfer. The scientific work is being done in cooperation with the United States Geological Survey with a proposed project cost of \$3.3 million.

St. Johns River WMD. The District has prepared a schedule of priority water bodies for which minimum flows and levels are going to be established and the year in which the work will be completed. Staff reported to DEP in May of 1996 that they were completing minimum flows and levels for priority springs and lakes at a rate of 1 every 3 weeks (17 per year).

Southwest Florida WMD. In February 1996, the Florida Land and Water Adjudicatory Commission (the Governor and Cabinet) issued a Final Order to the SWFWMD to update its District Water Management Plan by July 1, 1996, as a means of scheduling priority minimum flows and levels for aquifers and surface waters. The District submitted a report to the Commission on June 30, 1996, outlining its schedule for establishing minimum flows and levels in District water bodies.

In accordance with Ch. 96-339, Laws of Florida, the District has declared the northern Tampa Bay area as the area for first priority for establishing minimum aquifer (and associated lake) levels. The District plans to establish minimum flows and levels for the aquifers

and priority lakes in this area, as well as the lower reaches of the Hillsborough River/Tampa Bypass Canal by October 1, 1997. By 1999, the District also plans to establish minimum flows and levels for the Upper Hillsborough River System, priority lakes in the Northern Tampa Bay area and Pasco county, as well as the Manatee and Braden rivers, Shell Creek, the Upper Peace River, and the Little Manatee River.

Northwest Florida WMD. District management reported that the District does not have sufficient financial resources to undertake a comprehensive program for establishing minimum flows and levels. The District is currently undertaking a project to establish the fresh water requirements of the Apalachicola River and Bay. This needs assessment is expected to be complete in 1998. The District will then begin adopting minimum flows and levels for the Apalachicola River. No time frame has been set for completing the minimum flows and levels. The District does not have any immediate plans for other water bodies, but reported to Lt. Governor McKay, in a letter dated May 13, 1996, that after work for the Apalachicola River and Bay is completed, efforts would likely be directed toward other intrastate waters such as the Choctawhatchee River and the Floridan Aquifer in selected coastal regions of the District.

Actions Taken to Define Unacceptable Impacts to Natural Systems

Although DEP and the WMDs agree that more consistency is needed in how they define and measure unacceptable impacts to natural systems, they have not yet set statewide criteria. DEP staff report that developing criteria to determine levels of impact poses a challenge because differing regional characteristics and inadequate scientific data complicate attempts to set statewide criteria. On November 26, 1997, the Governor's office issued a memorandum requesting DEP and the WMDs to organize a workgroup to help accomplish this task. The workgroup is to develop, at the most practical level of detail, a standard technical framework for the establishment of minimum flows and levels.

Actions Taken to Improve Integration of Water Resources and Land Use Planning

There appears to be an increase in cooperative actions taking place among the WMDs, the Department, and local government with regard to water resources and land use planning.

Water Management District Actions. All of the water management districts reported methods through which they are providing assistance to local governments. These methods include conducting technical studies, hosting water resource conferences, conducting town meetings, distributing data to local governments, and providing opportunities for local governments to participate in planning activities. Two WMDs (Southwest Florida and St. Johns River) indicated they offer technical assistance in developing local government Evaluation and Appraisal Reports and Evaluation and Appraisal Report amendments. The following are examples of improved coordination as reported by the WMDs.

- The St. Johns River WMD formed the Water Utilities Advisory Board to offer local governments and private utilities an opportunity to participate in rule making, development of technical information, and informal regional planning.
- The Southwest Florida WMD authorized an additional staff position to work proactively with local government to coordinate land use planning with water management resources. The District also reorganized its planning assistance program so that staff planning teams can take an interdisciplinary approach to water resource management issues.
- The South Florida WMD stated that their ongoing water supply planning gets heavy participation from local governments and that the WMD regional plans are implemented through partnerships with local governments in areas of projected water supply problems.

Department of Community Affairs Actions. The Department of Community Affairs has been involved in several initiatives to improve integration of water resources planning and land use planning including

sponsoring conferences and workshops that provide a forum for WMD officials to discuss available data for

use in comprehensive planning. The Department has also assigned staff to assist DEP in development of the Florida Water Plan and State Water Policy to help with WMD interagency and local government water supply planning efforts.

Conclusions and Recommendations

The 1997 Legislature established additional requirements that should further WMD efforts to complete minimum flows and levels. Chapter 97-160, Laws of Florida, requires each WMD to submit a priority list and schedule for the establishment of minimum flows and levels to DEP for review and approval by November 15, 1997, and annually thereafter. The law also requires the WMDs to implement a recovery or prevention strategy if the existing flow or level of a water body is below, or is projected to fall within 20 years below, the applicable minimum flow and level.

However, although DEP and the WMDs agree that more consistency is needed in how they define unacceptable impacts to natural systems, statewide criteria has not yet been set. Given the 1997 legislative changes to the minimum flows and levels requirements, it is even more important that DEP and the WMDs continue to work to establish statewide criteria in how they define and measure unacceptable impacts to natural systems. To accomplish this task, we recommend that the Governor's office set a deadline for the workgroup, created through the November, 1997 memorandum, to establish a consistent approach for setting minimum flows and levels.

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