

PERMIT INFORMATION MANUAL

Volume II, District Rules, Regulations
and Legislation

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Resource Control Department
South Florida Water Management District
P.O. Box V
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This public document was promulgated at an annual cost of \$404.28, or \$.81 per copy to list Florida statutes, rules and regulations effecting District policy. RCD Rev 1185 500

INTRODUCTION

This volume contains a reprint of Chapter 373, Florida Statutes - Water Resources and Chapter 40E, Florida Administrative Code - Rules of the South Florida Water Management District.

An Appendix is included which contains forms applicable to the regulatory functions of the South Florida Water Management District.

Amendments or additions referred to in this volume are not necessarily all encompassing but may be limited to those affecting regulatory activities.

Publications incorporated by reference in Chapter 40E, FAC which have not been included in this volume are as follows:

"Basis of Review for Public Water System Water Use Applications- August 1980"

"Basis of Review of Applications for Industrial Water Use within the South Florida Water Management District - October 1980"

"Basis of Review of Applications for Mining Water Use (Dewatering) within the South Florida Water Management District-December 1980"

Section 40E.21, Florida Administrative Code, "Water Shortage Plan."

"Criteria Manual for Use of Works of the District - June 1981"

The above listed documents are available from the District upon request.

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CHAPTER 373

WATER RESOURCES

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		373.012	Topographic mapping.— (1) In order to accelerate topographic mapping in this state by the United States Geological Survey, the Department of Transportation is hereby authorized and directed to set aside, to pledge, and to make

available annually out of its State Transportation Trust Fund the sum of \$30,000; and the Board of Trustees of the Internal Improvement Trust Fund is hereby authorized and directed to set aside, to pledge and to make available annually out of the Land Acquisition Trust Fund the sum of \$10,000; and the South Florida Water Management District out of its funds to be derived out of the proceeds of special assessments of its flood control taxes, is authorized and directed to set aside, to pledge and to make available annually such sum as may be required to meet the needs for topographic mapping of areas affecting said district. Such sums shall be delivered to the Treasurer of the United States or to other proper officer, to be applied by the Department of the Interior, U. S. Geological Survey, as to said Department of Transportation and to said Board of Trustees of the Internal Improvement Trust Fund, toward the payment of not exceeding one-half the cost of standard topographic mapping in this state conducted by the United States Geological Survey and as to said flood control district to be applied toward the payment of such proportion or part of such cost as said district may determine. Provided, however, that said sums authorized in this section for the Department of Transportation and for the Board of Trustees of the Internal Improvement Trust Fund shall not prevent either of said agencies from providing additional amounts for topographic mapping of areas which either agency may consider of priority status in the interest of said agencies.

(2) To further accelerate the rate at which topographic mapping may be carried on in Florida, any state agency having funds available for the purpose, any county or drainage or reclamation or flood control district organized under the laws of this state, any person, firm or corporation, is authorized to contribute to the cost of such mapping by depositing with the Department of Transportation such amounts as may be determined to be applied in like manner toward topographic mapping in this state as set forth in subsection (1).

(3) The Department of Transportation, the Board of Trustees of the Internal Improvement Trust Fund of this state, and the South Florida Water Management District are hereby authorized to make such arrangements or enter into such agreements with the United States as may be necessary to carry out the purposes of this section.

(4) The Board of Trustees of the Internal Improvement Trust Fund, as and when copies of topographic maps are made available to it, shall file such maps in the same manner as other maps and plats of land surveys by the United States, and the maps shall be available for examination by any interested person.

History.—ss. 1, 2, 3, 4, ch. 57-775; s. 2, ch. 61-119; s. 1, ch. 65-475; ss. 23, 27, 35, ch. 69-106; ss. 2, 3, ch. 73-57; s. 35, ch. 79-65.

373.013 Short title.—This chapter shall be known as the “Florida Water Resources Act of 1972.”

History.—s. 1, part 1, ch. 72-299.

373.016 Declaration of policy.—

(1) The waters in the state are among its basic re-

sources. Such waters have not heretofore been conserved or fully controlled so as to realize their full beneficial use.

(2) 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, development, and proper utilization of surface and ground water;

(c) To develop and regulate dams, impoundments, reservoirs, and other works and to provide water storage for beneficial purposes;

(d) To prevent damage from floods, soil erosion, and excessive drainage;

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

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

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

(3) The Legislature recognizes that the water resource problems of the state vary from region to region, both in magnitude and complexity. It is therefore the intent of the Legislature to vest in the Department of Environmental Regulation or its successor agency the power and responsibility to accomplish the conservation, protection, management, and control of the waters of the state and with sufficient flexibility and discretion to accomplish these ends through delegation of appropriate powers to the various water management districts. The department may exercise any power herein authorized to be exercised by a water management district; however, to the greatest extent practicable, such power should be delegated to the governing board of a water management district.

History.—s. 2, part 1, ch. 72-299; s. 36, ch. 79-65.

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) “Department” means the Department of Environmental Regulation or its successor agency or agencies.

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

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

(4) “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.

(5) “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.

- * (6) "Domestic use" means any use of water for individual personal needs or for household purposes such as drinking, bathing, heating, cooking, or sanitation.
- (7) "Nonregulated use" means any use of water which is exempted from regulation by the provisions of this chapter.
- (8) "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.
- (9) "Ground water" means water beneath the surface of the ground, whether or not flowing through known and definite channels.
- (10) "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.
- (11) "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 shall have been dredged or improved does not prevent the watercourse from being a stream.
- (12) "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.
- (13) "Coastal waters" means waters of the Atlantic Ocean or the Gulf of Mexico within the jurisdiction of the state.
- (14) "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.
- (15) "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.

373.023 Scope and application.—

- (1) All waters in the state are subject to regulation under the provisions of this chapter unless specifically exempted by general or special law.
- (2) No state or local government agency may enforce, except with respect to water quality, any special act, rule, regulation, or order affecting the waters in the state controlled under the provisions of this act, whether enacted or promulgated before or after the effective date of this act, until such special act, rule, regulation, or order has been filed with the department. However, any agency empowered to issue emergency orders affecting such waters may enforce such emergency orders prior to filing such orders with the department. Any rule or regulation in effect on the effective date of this act which is not filed with

the department within 180 days after the effective date of this act shall be deemed repealed if the notice hereinafter called for shall have been received by the state or local agency issuing such rule or regulation. The department is directed to notify by certified or registered mail every state or local government agency known to be authorized to enforce any special act, rule, regulation or order affecting the waters of the state regarding the provisions of this subsection. The department is directed to review periodically such special acts, rules, regulations, and orders and to recommend to the appropriate agencies or the Legislature the amendment, consolidation, or revocation of inconsistencies or duplications therein.

- (3) Any state or local governmental agency or other person having the power of eminent domain or condemnation under the laws of this state must notify the department or the governing board of a water management district prior to exercising that power.

History.—s. 4, part I, ch. 72-299; s. 1, ch. 73-190.

373.026 General powers and duties of the department.—The Department of Environmental Regulation, or its successor agency, shall be responsible for the administration of this chapter at the state level. However, the department may enter into interagency agreements with any other state agency conducting programs related to or materially affecting the water resources of the state. All such interagency agreements shall be subject to the provisions of s. 373.046. In addition to its other powers and duties, the department is authorized:

- (1) To conduct, independently or in cooperation with other agencies, topographic surveys, research, and investigations into all aspects of water use and water quality.
- (2) To collect, compile, and analyze, for its use and guidance in administering the water resource laws of this state, scientific and factual data from the United States Geological Survey or any state agency. State agencies are directed to cooperate with the department or its agents in making available to it for this purpose such scientific and factual data as they may have.
- (3) To cooperate with other state agencies, water management districts, and regional, county, or other local governmental organizations or agencies created for the purpose of utilizing and conserving the waters in this state; to assist such organizations and agencies in coordinating the use of their facilities; and participate in an exchange of ideas, knowledge, and data with such organizations and agencies. For this purpose the department may maintain an advisory staff of experts.
- (4) To prepare and provide for dissemination to the public of current and useful information relating to the water resources of the state.
- (5) To identify by continuing study those areas of the state where saltwater intrusion is a threat to freshwater resources and report its findings to the water management districts, boards of county commissioners, and public concerned.
- (6) To conduct, either independently or in cooperation with any person or governmental agency, a

program of study, research, and experimentation and evaluation in the field of weather modification.

(7) To exercise general supervisory authority over all water management districts. The department may exercise any power herein authorized to be exercised by a water management district. The department shall review, and may rescind or modify, any policy, rule, regulation, or order of a water management district, except those policies, rules, or regulations which involve only the internal management of the district, to insure compliance with the provisions and purposes of this chapter. Such review may be initiated at any time either by the department or by an interested person aggrieved by such policy, rule, regulation, or order by filing a request for such review with the department and serving a copy on the water management district. Such request for review is not a precondition to the effectiveness of such policy, rule, regulation, or order, or to the seeking of judicial review as otherwise provided.

(8)(a) To provide such coordination, cooperation, or approval necessary to the effectuation of any plan or project of the Federal Government in connection with or concerning the waters in the state. Unless otherwise provided by state or federal law, the department shall, subject to confirmation by the Legislature, have the power to approve or disapprove such federal plans or projects on behalf of the state.

(b) The department, subject to confirmation by the Legislature, shall act on behalf of the state in the negotiation and consummation of any agreement or compact with another state or other states concerning waters of the state.

(9)(a) To hold annually a conference on water resources developmental programs. Each agency, commission, district, municipality, or political subdivision of the state responsible for a specific water resources development program requiring federal assistance shall present at such conference its programs and projects and the needs thereof. Notice of the time and place of the annual conference on water resources developmental programs shall be extended by mail at least 30 days prior to the date of such conference to any person who has filed a written request for notification with the department. Adequate opportunity shall be afforded for participation at the conference by interested members of the general public.

(b) Upon termination of the water conference, the department shall select those projects for presentation in the Florida program of public works which best represent the public welfare and interest of the people of the state as required for the proper development, use, conservation, and protection of the waters of the state and land resources affected thereby. Thereafter, the department shall present to the appropriate committees and agencies of the Federal Government a program of public works for Florida, requesting authorization for funds for each project.

History.—s. 5, part 1, ch. 72-299; s. 4, ch. 74-114; s. 38, ch. 79-65.
 Note.—See s. 11, ch. 75-22 (s. 373.114), which vests exclusive authority to review policies, rules, regulations, and orders of water management districts in the Governor and Cabinet, sitting as the Land and Water Adjudicatory Commission.

373.029 Southeast River Basins Resources Advisory Board.—

(1) The Governor of this state shall have authority to appoint a representative of this state to serve on the Resources Advisory Board, Southeast River Basins, as said board is now, or may hereafter be, authorized, designated, and constituted. This power of appointment shall include the authority to fill vacancies in the position of representative of this state on said board from whatever cause existing and, from time to time, to make appointments for successive terms.

(2) The representative of this state on said board shall be reimbursed by this state for his necessary travel expenses while engaged in the business of said board, as provided by s. 112.061.

(3) For the purpose of paying Florida's pro rata share of the expense of maintaining and operating the Resources Advisory Board, Southeast River Basins, the department may expend an amount not in excess of \$25,000 per annum out of moneys allocated the department.

(4) The Resources Advisory Board, Southeast River Basins, is hereby authorized to enter into whatever agreement or agreements are necessary for the purpose of extending old-age and survivors insurance coverage to the employees of said board. Funds appropriated to or available to said board may be expended for such purpose. The board is hereby authorized to take whatever action or actions deemed necessary to provide the aforesaid coverage.

History.—ss. 1, 2, 3, ch. 63-407; s. 1, ch. 65-510; s. 1, ch. 67-595; ss. 25, 35, ch. 69-106; s. 25, ch. 73-190; s. 39, ch. 79-65.
 Note.—Former s. 373.193.

373.033 Saltwater barrier line.—

(1) The department may, at the request of the board of county commissioners of any county, at the request of the governing board of any water management district, or any municipality or water district responsible for the protection of a public water supply, or, having determined by adoption of an appropriate resolution that saltwater intrusion has become a matter of emergency proportions, by its own initiative, establish generally along the seacoast, inland from the seashore and within the limits of the area within which the petitioning board has jurisdiction, a saltwater barrier line inland of which no canal shall be constructed or enlarged, and no natural stream shall be deepened or enlarged, which shall discharge into tidal waters without a dam, control structure or spillway at or seaward of the saltwater barrier line, which shall prevent the movement of salt water inland of the saltwater barrier line. Provided, however, that the department is authorized, in cases where saltwater intrusion is not a problem, to waive the requirement of a barrier structure by specific permit to construct a canal crossing the saltwater barrier line without a protective device and provided, further that the agency petitioning for the establishment of the saltwater barrier line shall concur in the waiver.

(2) Application by a board of county commissioners or by the governing board of a water management district, a municipality or a water district for the establishment of a saltwater barrier line shall be made by adoption of an appropriate resolution, agreeing to:

(a) Reimburse the department the cost of necessary investigation, including, but not limited to, subsurface exploration by drilling, to determine the proper location of the saltwater barrier line in that county or in all or part of the district over which the applying agency has jurisdiction.

(b) Require compliance with the provisions of this law by county or district forces under their control; by those individuals or corporations filing plats for record and by individuals, corporations or agencies seeking authority to discharge surface or subsurface drainage into tidal waters.

(3) The board of county commissioners of any county or the governing board of any water management district, municipality or water district desiring to establish a saltwater barrier line is authorized to reimburse the department for any expense entailed in making an investigation to determine the proper location of the saltwater barrier line, from any funds available to them for general administrative purposes.

(4) The department, any board of county commissioners, and the governing board of any water management district, municipality, or water district having competent jurisdiction over an area in which a saltwater barrier is established shall be charged with the enforcement of the provisions of this section, and authority for the maintenance of actions set forth in s. 373.129 shall apply to this section.

(5) The provisions of s. 373.191 shall apply specifically to the authority of the board of county commissioners, or to the governing board of a water management district, a municipality, or a water district having jurisdiction over an area in which a saltwater barrier line is established, to expend funds from whatever source may be available to them for the purpose of constructing saltwater barrier dams, dikes, and spillways within existing canals and streams in conformity with the purpose and intent of the board in establishing the saltwater barrier line.

History.—s. 2, ch. 63-210; ss. 25, 35, ch. 69-106; s. 25, ch. 73-190; s. 14, ch. 78-95; s. 40, ch. 79-65; s. 85, ch. 79-164.

Note.—Former s. 373.194.

373.036 State water use plan.—

(1) The department shall proceed as rapidly as possible to study existing water resources in the state; means and methods of conserving and augmenting such waters; existing and contemplated needs and uses of water for protection and procreation of fish and wildlife, irrigation, mining, power development, and domestic, municipal, and industrial uses; and all other related subjects, including drainage, reclamation, flood plain or flood-hazard area zoning, and selection of reservoir sites. The department shall cooperate with the Executive Office of the Governor, or its successor agency, progressively to formulate, as a functional element of a comprehensive state plan, an integrated, coordinated plan for the use and development of the waters of the state, based on the above studies. This plan, with such amendments, supplements, and additions as may be necessary from time to time, shall be known as the state water use plan.

(2) In the formulation of the state water use plan, the department shall give due consideration to:

(a) The attainment of maximum reasonable-beneficial use of water for such purposes as those referred to in subsection (1).

(b) The maximum economic development of the water resources consistent with other uses.

(c) The control of such waters for such purposes as environmental protection, drainage, flood control, and water storage.

(d) The quantity of water available for application to a reasonable-beneficial use.

(e) The prevention of wasteful, uneconomical, impractical, or unreasonable uses of water resources.

(f) Presently exercised domestic use and permit rights.

(g) The preservation and enhancement of the water quality of the state and the provisions of the state water quality plan.

(h) The state water resources policy as expressed by this chapter.

(3) During the process of formulating or revising the state water use plan, the department shall consult with, and carefully evaluate the recommendations of, concerned federal, state, and local agencies, particularly the governing boards of the water management districts, and other interested persons.

(4) Each governing board is directed to cooperate with the department in conducting surveys and investigations of water resources, to furnish the department with all available data of a technical nature, and to advise and assist the department in the formulation and drafting of those portions of the state plan applicable to the district.

(5) The department shall not adopt or modify the state water use plan or any portion thereof without first holding a public hearing on the matter. At least 90 days in advance of such hearing, the department shall notify any affected governing boards, and shall give notice of such hearing by publication within the affected region pursuant to the provisions of chapter 120, except such notice by publication shall be extended at least 90 days in advance of such hearings.

(6) For the purposes of this plan the department may, in consultation with the affected governing board, divide each water management district into sections which shall conform as nearly as practicable to hydrologically controllable areas and describe all water resources within each area.

(7) The department shall give careful consideration to the requirements of public recreation and to the protection and procreation of fish and wildlife. The department may prohibit or restrict other future uses on certain designated bodies of water which may be inconsistent with these objectives.

(8) The department may designate certain uses in connection with a particular source of supply which, because of the nature of the activity or the amount of water required, would constitute an undesirable use for which the governing board may deny a permit.

(9) The department may designate certain uses in connection with a particular source of supply which, because of the nature of the activity or the amount of water required, would result in an enhancement or improvement of the water resources of the area. Such uses shall be preferred over other uses in the event of

competing applications under the permitting systems authorized by this chapter.

(10) The department, in cooperation with the Executive Office of the Governor, or its successor agency, may add to the state water use plan any other information, directions, or objectives it deems necessary or desirable for the guidance of the governing boards or other agencies in the administration and enforcement of this chapter.

History.—s. 6, part 1, ch. 72-299; ss. 2, 3, ch. 73-190; s. 122, ch. 79-190.

373.039 Florida water plan.—The state water use plan together with the water quality standards and classifications of the department or its successor agency shall constitute the Florida water plan. The state water use plan should be developed in coordination with the water quality standards system.

History.—s. 7, part 1, ch. 72-299; s. 41, ch. 79-65.

373.042 Minimum flows and levels.—Within each section, or the water management district as a whole, the department or the governing board shall establish the following:

(1) 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.

(2) Minimum water level. The minimum water level shall be the level of ground water 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.

History.—s. 6, part 1, ch. 72-299; s. 2, ch. 73-190.

Note.—Former s. 373.036(7).

373.043 Adoption and enforcement of regulations by the department.—The department shall adopt, promulgate, and enforce such regulations and review procedures as may be necessary or convenient to administer the provisions of this chapter.

History.—s. 8, part 1, ch. 72-299; s. 5, ch. 74-114.

373.044 Rules and regulations; enforcement.—In administering this chapter the governing board of the district is authorized to make and adopt reasonable rules, regulations and orders consistent with law and such rules, regulations and orders may be enforced by mandatory injunction, or other appropriate action in the courts of the state.

History.—s. 4, ch. 29790, 1955; s. 25, ch. 73-190.

Note.—Former s. 378.151.

373.046 Interagency agreements.—The department may enter into interagency agreements with or among any other state agencies conducting

programs or exercising powers related to or affecting the water resources of the state. Such agreements may establish principal-agency or contract relationships, provide for cross-deputization of enforcement personnel, provide for consolidation of facilities, equipment or personnel, or such other relationships as may be deemed beneficial to the public interest. Such interagency agreements shall be promulgated in the same manner as rules and regulations, subject to chapter 120. All state agencies conducting programs or exercising powers relating to or affecting the water resources of the state are hereby authorized to delegate such authority to the department or any of the several water management districts pursuant to such interagency agreements.

History.—s. 9, part 1, ch. 72-299.

373.047 Cooperation between districts.—Any flood control district created under the authority of chapter 378 is authorized to advise other flood control districts or water management districts of the state in processing matters with the federal government and to render such technical assistance as may be helpful to the efficient operation of such other districts.

History.—s. 1, ch. 61-245; s. 25, ch. 73-190.

Note.—Former s. 378.52.

373.056 State agencies, cities, etc., authorized to convey land to flood control districts.—

(1)(a) When it is found to be in the public interest and for the public convenience and welfare, and for the public benefit, and necessary for carrying out the works of improvement of any flood control district referred to in this chapter for the protection of property and the inhabitants in said district against the effects of water, either from its surplus or deficiency, and for assisting said district in acquiring land for the purposes of said district at least public expense, any state agency, any county, any drainage district, any municipality or any governmental agency or public corporation in this state holding title to land, is hereby authorized, in the discretion of the proper officer or officers, the county commissioners of any county, or the governing board of any agency referred to in this section, to convey the title to or to dedicate land, title to which is in such agency, including tax reverted land, or to grant use rights therein to any flood control district created under any law enacted by the Legislature at its 1949 session.

(b) The land to which this section shall apply shall be located within the boundaries of said flood control district.

(2) Land granted or conveyed to said district or dedicated to the purposes thereof, or use rights in said land granted thereto, shall be for the public purposes of said district, and may be made subject to the condition that in the event said land is not so used, or if used and subsequently its use for said purpose is abandoned, that granted shall cease as to said district and shall automatically revert to the granting agency.

(3) Any county, municipality, drainage district, or other taxing agency holding title to land through tax reversion, foreclosure, forfeiture, or through other procedure by which tax title vested in such agency,

may, pending the determination of needs of said district, withhold from sale or other disposition from time to time such land as in the judgment of such agency may be needed or helpful in facilitating the purposes of this chapter. In the event more than one taxing agency holds tax title to the same land, resulting in multiple reversion, each of said agencies may grant to said district such right, title or interest as it may have in said land.

(4) Any flood control district within this chapter shall have authority to convey to any other agency described herein land or rights in land owned by said district not required for its purposes, under such terms and conditions as the governing board of said district may determine.

(5) Any land granted or conveyed to such district, or dedicated to the purposes thereof, or the use right of which has been granted thereto, shall not be subject to the district taxes, or other taxes or special assessments so long as said title or said rights remain in said district.

(6) All rights of way of a flood control district, which are within the boundaries of a drainage district, shall not be liable for maintenance taxes of the drainage district.

History.—ss. 1, 2, 3, 4, 5, ch. 25213, 1949; s. 6, ch. 61-497; s. 25, ch. 73-190.
Note.—Former s. 378.46.

373.069 Creation of water management districts.—

(1) At 11:59 p.m. on December 31, 1976, the state shall be divided into the following water management districts:

(a) Northwest Florida Water Management District.

(b) Suwannee River Water Management District.

(c) St. Johns River Water Management District.

(d) Southwest Florida Water Management District.

(e) South Florida Water Management District.

(2) Notwithstanding the provisions of any other special or general act to the contrary, the boundaries of the respective districts named in subsection (1) shall include the areas within the following boundaries:

(a) *Northwest Florida Water Management District.*—Begin at the point where the section line between Sections 26 and 27, Township 4 South, Range 3 East intersects the Gulf of Mexico; thence north along the section line to the northwest corner of Section 2, Township 1 South, Range 3 East; thence east along the Tallahassee Base Line to the southeast corner of Section 36, Township 1 North, Range 4 East; thence north along the range line to the northwest corner of Section 6, Township 1 North, Range 5 East; thence east along the township line to the southeast corner of Section 36, Township 2 North, Range 5 East; thence north along the range line to the northeast corner of Section 24, Township 2 North, Range 5 East; thence west along the section line to the southwest corner of the east $\frac{1}{2}$ of Section 13, Township 2 North, Range 5 East; thence north to the northwest corner of the east $\frac{1}{2}$ of Section 13, Township 2 North, Range 5 East; thence east along the section line to the southeast corner of Section 12, Town-

ship 2 North, Range 5 East; thence north along the range line to the northeast corner of Section 24, Township 3 North, Range 5 East; thence west along the Watson Line to the southwest corner of Lot Number 168; thence north along the line between Lot Numbers 168 and 169, 154 and 155 to the Georgia line; thence westward along the Georgia-Florida line to the intersection of the south boundary of the State of Alabama; thence west along the Alabama-Florida line to the intersection of the northwest corner Alabama-Florida Boundary; thence south along the Alabama-Florida line to the Gulf of Mexico; thence east along the Gulf of Mexico, including the waters of said Gulf within the jurisdiction of the State of Florida, to the Point of Beginning.

(b) *Suwannee River Water Management District.*—Begin in the Gulf of Mexico on the section line between Sections 29 and 32, Township 15 South, Range 15 East; thence east along the section line to the southwest corner of Section 27, Township 15 South, Range 17 East; thence north along the section line to the northwest corner of Section 3, Township 15 South, Range 17 East; thence east along the section line to the easterly right of way line of State Road No. 337; thence northerly along said easterly right of way line of State Road No. 337 to the southerly right of way line of State Road No. 24; thence northeasterly along said southerly right of way line of State Road No. 24 to the Levy-Alachua county line; thence south along the Levy-Alachua county line, also being the range line between Range 17 and 18 East to the southeast corner of Section 36, Township 11 South, Range 17 East; thence easterly along the Levy-Alachua county line, also being the township line between Townships 11 and 12 South, to the southeast corner of Section 36, Township 11 South, Range 18 East; thence north along the range line to the northwest corner of Section 19, Township 9 South, Range 19 East; thence east along the section line to the southeast corner of Section 13, Township 9 South, Range 19 East; thence north along the range line to the northwest corner of Section 6, Township 9 South, Range 20 East; thence eastward along the township line to the southeast corner of Section 36, Township 8 South, Range 20 East; thence north along the township line to the northwest corner of Section 18, Township 8 South, Range 21 East; thence east along the section line to the northeast corner of Section 15, Township 8 South, Range 21 East; thence south along the section line to the southwest corner of Section 23, Township 8 South, Range 21 East; thence east along the section line to the northeast corner of Section 26, Township 8 South, Range 21 East; thence south along the section line to the southwest corner of the north $\frac{1}{2}$ of Section 25, Township 8 South, Range 21 East; thence east along a line to the northeast corner of the south half of Section 25, Township 8 South, Range 21 East; thence south along the range line to the southwest corner of Section 30, Township 8 South, Range 22 East; thence east along the section line to the northeast corner of Section 32, Township 8 South, Range 22 East; thence south along the section line to the southwest corner of Section 16, Township 9 South, Range 22 East; thence eastward along the section line to the south-

east corner of the west $\frac{1}{4}$ of Section 18, Township 9 South, Range 23 East; thence northward to the northeast corner of the west $\frac{1}{4}$ of Section 18, Township 9 South, Range 23 East; thence west to the southwest corner of Section 7, Township 9 South, Range 23 East; thence northward along the Bradford-Clay County line to the northeast corner of Section 36, Township 8 South, Range 22 East; thence west along the section line to the southwest corner of the east $\frac{1}{2}$ of Section 25, Township 8 South, Range 22 East; thence north to the northeast corner of the west $\frac{1}{2}$ of Section 24, Township 8 South, Range 22 East; thence west along the section line to the southwest corner of Section 13, Township 8 South, Range 22 East; thence north along the section line to the northwest corner of Section 25, Township 7 South, Range 22 East; thence east along the section line to the southeast corner of Section 24, Township 7 South, Range 22 East; thence north along the Bradford-Clay County line to the intersection of the south boundary of Baker County; thence west along the Baker-Bradford County line to the intersection of the east boundary of Union County; thence west along the Union-Baker County line to the southwest corner of Section 18, Township 4 South, Range 20 East; thence north along the range line to the northeast corner of Section 1, Township 3 South, Range 19 East; thence west along the township line to the intersection of the east boundary of Columbia County; thence north along the Baker-Columbia County line to the intersection of the north boundary line of the State of Florida; thence westward along the Georgia-Florida line to the northwest corner of Lot Number 155; thence south along the line between Lot Number 154 and 155, 168 and 169 to the Watson Line; thence east along the Watson Line to the northeast corner of Section 24, Township 3 North, Range 5 East; thence south along the range line between Ranges 5 and 6 East to the southeast corner of Section 12, Township 2 North, Range 5 East; thence west along the section line to the northwest corner of the east $\frac{1}{2}$ of Section 13, Township 2 North, Range 5 East; thence south to the southwest corner of the east $\frac{1}{2}$ of Section 13, Township 2 North, Range 5 East; thence east along the section line to the northeast corner of Section 24, Township 2 North, Range 5 East; thence south along the range line between Ranges 5 and 6 East to the southeast corner of Section 36, Township 2 North, Range 5 East; thence west along the township line between Townships 1 and 2 North to the northwest corner of Section 6, Township 1 North, Range 5 East; thence south along the range line between Ranges 4 and 5 East to the southeast corner of Section 36, Township 1 North, Range 4 East; thence west along the Tallahassee Base Line to the northwest corner of Section 2, Township 1 South, Range 3 East; thence south along the section line to the Gulf of Mexico; thence along the shore of the Gulf of Mexico, including the waters of said gulf within the jurisdiction of the State of Florida, to the point of the beginning.

(c) *St. Johns River Water Management District.*—Begin at the intersection of the south boundary of Indian River County with the Atlantic Ocean; thence west along the Indian River-St. Lucie County line to

the intersection of the west boundary of St. Lucie County; thence south along the Okeechobee-St. Lucie County line to the southeast corner of Section 1, Township 34 South, Range 36 East; thence west along the section line to the northwest corner of Section 10, Township 34 South, Range 36 East; thence south along the section line to the southeast corner of Section 9, Township 34 South, Range 36 East; thence west along the section line to the northwest corner of Section 18, Township 34 South, Range 36 East; thence south along the range line between Ranges 35 and 36 East to the southeast corner of Section 12, Township 34 South, Range 35 East; thence west along the section line to the northwest corner of Section 13, Township 34 South, Range 35 East; thence south along the section line to the southeast corner of Section 35, Township 34 South, Range 35 East; thence west along the township line between Townships 34 and 35 south to the southwest corner of Section 35, Township 34 South, Range 34 East; thence north along the section line to the Okeechobee-Osceola County line; thence west along the Okeechobee-Osceola County line to the southwest corner of Section 34, Township 32 South, Range 33 East; thence north along the section line to the northwest corner of Section 3, Township 31 South, Range 33 East; thence east along the township line between Townships 30 and 31 South to the southeast corner of Section 36, Township 30 South, Range 33 East; thence north along the range line between Ranges 33 and 34 East to the northeast corner of Section 1, Township 30 South, Range 33 East; thence west along the township line between Townships 29 and 30 south to the southwest corner of Section 31, Township 29 South, Range 33 East; thence north along the range line between Ranges 32 and 33 East to the northwest corner of Section 6, Township 28 South, Range 33 East; thence east along the township line between Townships 27 and 28 south to the southeast corner of Section 36, Township 27 South, Range 32 East; thence north along the range line between Ranges 32 and 33 East to the northeast corner of Section 1, Township 26 South, Range 32 East; thence west along the township line between Townships 25 and 26 South to the southwest corner of Section 33, Township 25 South, Range 32 East; thence north along the section line to the Orange-Osceola County line; thence westerly along the Orange-Osceola County line to the Southwest corner of Section 31, Township 24 South, Range 32 East; thence north along the range line to the intersection with the northerly right-of-way line of State Road 528, also known as the Bee Line Expressway; thence westerly along the northerly right-of-way line of State Road 528 to the intersection with the northerly right-of-way line of State Road 528A; thence westerly along the northerly right-of-way line of State Road 528A to the westerly right-of-way line of U.S. Highway 441; thence northerly along the right-of-way line to the section line between sections 22 and 27 of Township 22 South, Range 29 East; thence west along the section lines to the Northeast corner of Section 25, Township 22 South, Range 28 East; thence south along the range line between Ranges 28 and 29 East to the Southeast corner of Section 36, Township

22 South, Range 28 East; thence west along the township line between Townships 22 and 23 South to the Northeast corner of Section 2, Township 23 South, Range 27 East; thence south to the Southeast corner of Section 11, Township 23 South, Range 27 East; thence west along the section lines to the Southwest corner of Section 7, Township 23 South, Range 27 East, also being the Lake-Orange County line; thence south along the range line between Ranges 26 and 27 East to the southwest corner of Section 18, Township 26 South, Range 27 East; thence east along the section line to the northeast corner of Section 19, township 26 South, Range 27 East; thence south along the section line to the southwest corner of Section 32, Township 26 South, Range 27 East; thence east along the township line between Townships 26 and 27 South to the northeast corner of Section 5, Township 27 South, Range 27 East; thence south along the section lines to the southerly right-of-way line of State Road 600; thence westerly along the southerly right-of-way line of said State Road No. 600 to the west boundary of Section 27, Township 27 South, Range 26 East; thence north along the section lines to the northeast corner of Section 16, Township 25 South, Range 26 East; thence west along the section line to the southwest corner of Section 9, Township 25 South, Range 26 East; thence north along the section lines to the Lake-Polk County line; thence west along the county line to the southwest corner of Section 32, Township 24 South, Range 26 East; thence into Lake County, north along the section lines to the northeast corner of Section 30, Township 24 South, Range 26 East; thence west along the section lines to the northeast corner of Section 28, Township 24 South, Range 25 East; thence north along the section lines to the northeast corner of Section 16, Township 24 South, Range 25 East; thence west along the section line to the northwest corner of Section 16, Township 24 South, Range 25 East; thence north along the section line to the northeast corner of Section 8, Township 24 South, Range 25 East; thence west along the section lines to the range line between Ranges 24 and 25; thence north along the range line to the northeast corner of Section 1, Township 23 South, Range 24 East, also being on the township line between Townships 22 and 23 South; thence west along the township line to the northwest corner of Section 6, Township 23 South, Range 24 East, also being on the Sumter-Lake County line; thence north along the Sumter-Lake County line, also being the range line between Ranges 23 and 24 East, to the northeast corner of Section 1, Township 18 South, Range 23 East, and the Marion County line; thence west along the Sumter-Marion County line, also being the township line between Townships 17 and 18 South, to the westerly right-of-way line of Interstate Highway 75; thence northerly along the westerly right-of-way line of Interstate Highway 75 to the Alachua-Marion County line, said line also being the township line between Townships 11 and 12 South; thence west along the Alachua-Marion County line to the northwest corner of Section 3, Township 12 South, Range 19 East, and the Levy County line; thence westerly along the Levy-Alachua County line, also being the township line between Townships 11

and 12 South, to the southeast corner of Section 36, Township 11 South, Range 18 East; thence north along the range line between Ranges 18 and 19 East to the northwest corner of Section 19, Township 9 South, Range 19 East; thence east along the section line to the southeast corner of Section 13, Township 9 South, Range 19 East; thence north along the range line between Ranges 19 and 20 East to the northwest corner of Section 6, Township 9 South, Range 20 East; thence easterly along the township line between Townships 8 and 9 South to the southeast corner of Section 36, Township 8 South, Range 20 East; thence north along the range line between Ranges 20 and 21 East to the northwest corner of Section 18, Township 8 South, Range 21 East; thence east along the section line to the northeast corner of Section 15, Township 8 South, Range 21 East; thence south along the section line to the southwest corner of Section 23, Township 8 South, Range 21 East; thence east along the section line to the northeast corner of Section 26, Township 8 South, Range 21 East; thence south along the section line to the southwest corner of the north $\frac{1}{2}$ of Section 25, Township 8 South, Range 21 East; thence east to the northeast corner of the south $\frac{1}{2}$ of Section 25, Township 8 South, Range 21 East; thence south along the range line between Ranges 21 and 22 East to the southwest corner of Section 30, Township 8 South, Range 22 East; thence east along the section line to the northeast corner of Section 32, Township 8 South, Range 22 East; thence south along the section line to the southwest corner of Section 16, Township 9 South, Range 22 East; thence eastward along the section line to the southeast corner of the west $\frac{1}{8}$ of Section 18, Township 9 South, Range 23 East; thence northward to the northeast corner of the west $\frac{1}{8}$ of Section 18, Township 9 South, Range 23 East; thence west to the southwest corner of Section 7, Township 9 South, Range 23 East; thence northward along the Bradford-Clay County line to the northeast corner of Section 36, Township 8 South, Range 22 East; thence west along the section line to the southwest corner of the east $\frac{1}{4}$ of Section 25, Township 8 South, Range 22 East; thence north to the northeast corner of the west $\frac{1}{8}$ of Section 24, Township 8 South, Range 22 East; thence west along the section line to the southwest corner of Section 13, Township 8 South, Range 22 East; thence north along the section line to the northwest corner of Section 25, Township 7 South, Range 22 East; thence east along the section line to the Bradford-Clay County line; thence north along the Bradford-Clay County line to the intersection of the south boundary of Baker County; thence west along the Baker-Bradford County line to the intersection of the east boundary of Union County; thence west along the Baker-Union County line to the southwest corner of Section 18, Township 4 South, Range 20 East; thence north along the range line between Ranges 19 and 20 East to the northeast corner of Section 1, Township 3 South, Range 19 East; thence west along the township line between Townships 2 and 3 South to the Baker-Columbia County line; thence north along the Baker-Columbia County line to the north boundary line of the State of Florida; thence easterly along the Florida-Georgia line to the Atlantic Ocean;

thence southerly along the Atlantic Ocean, including the waters of said ocean within the jurisdiction of the State of Florida to the point of beginning.

(d) *Southwest Florida Water Management District*.—Begin at the intersection of the north boundary of Lee County with the Gulf of Mexico; thence eastward along the Lee-Charlotte County line to the Southeast corner of Section 33, Township 42 South, Range 24 East; thence North into Charlotte County, along the section lines to the Northeast corner of Section 4, Township 42 South, Range 24 East; thence East along the township line between Townships 41 and 42 South to the Southeast corner of Section 36, Township 41 South, Range 25 East; thence north along the section line to the northwest corner of Section 6, Township 41 South, Range 26 East; thence east along the section line to the southeast corner of Section 36, Township 40 South, Range 26 East; thence North along the range line between Ranges 26 and 27 to the Northeast corner of Section 1, Township 40 South, Range 26 East, and the Charlotte-Desoto County line; thence east along the Charlotte-Desoto County line to the southeast corner of Section 36, Township 39 South, Range 27 East; thence north along the DeSoto-Highlands County line to the intersection of the South boundary of Hardee County; thence north along the Hardee-Highlands County line to the southwest corner of Township 35 South, Range 28 East; thence east along the north boundary of Township 36 South to the northeast corner of Section 1, Township 36 South, Range 28 East; thence south along the range line to the southeast corner of Section 12, Township 37 South, Range 28 East; thence east along the section line to the northeast corner of Section 15, Township 37 South, Range 29 East; thence south along the section line to the southeast corner of Section 34, Township 37 South, Range 29 East; thence east along the township line to the northeast corner of Section 1, Township 38 South, Range 29 East; thence south along the range line to the southeast corner of Section 1, Township 39 South, Range 29 East; thence east along the section line to the northwest corner of Section 11, Township 39 South, Range 30 East; thence north along the section line to the southwest corner of Section 35, Township 38 South, Range 30 East; thence east along the township line to the southeast corner of the west $\frac{1}{4}$ of Section 35, Township 38 South, Range 30 East; thence north along the $\frac{1}{4}$ -section line of Sections 35, 26, and 23, Township 38 South, Range 30 East to the northeast corner of the west $\frac{1}{4}$ section of Section 23, Township 38 South, Range 30 East; thence west along the section line to the northwest corner of Section 23, Township 38 South, Range 30 East; thence north along the section line to the northwest corner of Section 2, Township 37 South, Range 30 East; thence west along the township line to the southwest corner of Section 34, Township 36 South, Range 30 East; thence north along the section line to the northwest corner of Section 3, Township 36 South, Range 30 East; thence west along the township line to the southwest corner of Section 31, Township 35 South, Range 30 East; thence north along the range line between Ranges 29 and 30 East, through Townships 35, 34, and 33

South, to the northeast corner of Township 33 South, Range 29 East, being on the Highlands-Polk County line; thence west along the Highlands-Polk County line to the southeast corner of Township 32 South, Range 28 East; thence north along the range line between Ranges 28 and 29 East, in Townships 32 and 31 South, to the northeast corner of Section 12 in Township 31 South, Range 28 East; thence east along the section line to the northeast corner of Section 7, Township 31 South, Range 29 East; thence north along the section line to the northwest corner of Section 17, Township 30 South, Range 29 East; thence east along the section line to the northeast corner of the west $\frac{1}{2}$ of Section 17, Township 30 South, Range 29 East; thence north along the $\frac{1}{2}$ -section line to the northeast corner of the west $\frac{1}{2}$ of Section 5, Township 30 South, Range 29 East; thence west along the section line to the southwest corner of Section 32, Township 29 South, Range 29 East; thence north along the section line to the northeast corner of Section 19 in Township 29 South, Range 29 East; thence west along the north boundaries of Section 19, Township 29 South, Range 29 East, and Sections 24, 23, 22, 21, and 20, Township 29 South, Range 28 East, to the northwest corner of said Section 20; thence north along the section line to the intersection of said section line with the west shore line of Lake Pierce in Township 29 South, Range 28 East; thence following the west shore of Lake Pierce to its intersection again with the west section line of Section 5, Township 29 South, Range 28 East; thence north along the section line to the northwest corner of Section 5, Township 29 South, Range 28 East; thence east along the township line to the southwest corner of Section 33, Township 28 South, Range 28 East; thence north along the section line to the northwest corner of the southwest $\frac{1}{4}$ of the southwest $\frac{1}{4}$ of Section 28, Township 28 South, Range 28 East; thence east along the $\frac{1}{4}$ -section line to the intersection of said $\frac{1}{4}$ -section line with Lake Pierce; thence follow the shore line northeasterly to its intersection with the $\frac{1}{2}$ -section line of Section 28, Township 28 South, Range 28 East; thence north on the $\frac{1}{2}$ -section line to the northwest corner of the southeast $\frac{1}{4}$ of Section 28, Township 28 South, Range 28 East; thence east to the northeast corner of the southeast $\frac{1}{4}$ of Section 28, Township 28 South, Range 28 East; thence south along the section line to the northwest corner of Section 3, Township 29 South, Range 28 East; thence east along the section line to the northeast corner of Section 3, Township 29 South, Range 28 East; thence north along the section line to the northwest corner of Section 23, Township 28 South, Range 28 East; thence west along the section line to the southwest corner of Section 16, Township 28 South, Range 28 East; thence north along the section line to the northwest corner of Section 16, Township 28 South, Range 28 East; thence west along the section line to the southwest corner of Section 8, Township 28 South, Range 28 East; thence north along the section line to the northwest corner of Section 5, Township 28 South, Range 28 East; thence west along the township line to the intersection of said township line with Lake Marion; thence following the south shore line of Lake Marion to its intersection again with said

township line; thence west along the township line to the southeast corner of Section 36, Township 37 South, Range 27 East; thence north along the range line between Ranges 27 and 28 East to the intersection of said range line with Lake Marion; thence following the west shore of Lake Marion to its intersection again with the range line between Ranges 27 and 28 East; thence north along said range line, in Townships 27 and 26 South, to the northeast corner of Township 26 South, Range 27 East, being on the Polk-Osceola County line; thence west along the Polk-Osceola County line to the northwest corner of Township 26 South, Range 27 East; thence south along the range line between Ranges 26 and 27 East to the southwest corner of Section 18 in Township 26 South, Range 27 East; thence east along the section line to the southeast corner of said Section 18; thence south along the section lines to the southwest corner of Section 32 in Township 26 South, Range 27 East; thence east along the section line to the southeast corner of said Section 32; thence south along the section lines to the southerly right-of-way line of State Road 600 (U.S. Route 17 and 92) in Township 27 South, Range 27 East; thence westerly along the southerly right-of-way line of said State Road No. 600 to the West boundary of Section 27, Township 27 South, Range 26 East; thence north along the section line to the northeast corner of Section 16, Township 25 South, Range 26 East; thence west along the section line to the southwest corner of Section 9, Township 25 South, Range 26 East; thence north along the section line to the Lake-Polk County line; thence west along the county line to the southwest corner of Section 32, Township 24 South, Range 26 East; thence into Lake County, north along the section lines to the northeast corner of Section 30, Township 24 South, Range 26 East; thence west along the section lines to the northeast corner of Section 28, Township 24 South, Range 25 East; thence north along the section lines to the northeast corner of Section 16, Township 24 South, Range 25 East; thence west along the section line to the northwest corner of Section 16, Township 24 South, Range 25 East; thence north along the section line to the northeast corner of Section 8, Township 24 South, Range 25 East; thence west along the section lines to the range line between Ranges 24 and 25; thence north along the range line to the northeast corner of Section 1, Township 23 South, Range 24 East, also being on the township line between Townships 22 and 23 South; thence west along the township line to the northwest corner of Section 6, Township 23 South, Range 24 East also being on the Sumter-Lake County line; thence north along the Sumter-Lake County line, also being the range line between Ranges 23 and 24, to the northeast corner of Section 1, Township 18 South, Range 23 East and the Marion County line; thence west, along the Sumter-Marion County line, also being the township line between Townships 17 and 18 South, to the westerly right-of-way line of Interstate Highway 75; thence northerly along the westerly right-of-way line of Interstate Highway 75 to the Alachua-Marion County line, said line also being the township line between Townships 11 and 12 South; thence west along the Alachua-Marion County line to

the northwest corner of Section 3, Township 12 South, Range 19 East and the Levy County line; thence westerly along the Levy-Alachua County line, also being the township line between Townships 11 and 12 South, to the southeast corner of Section 36, Township 11 South, Range 17 East; thence north along the Levy-Alachua County line, also being the range line between Ranges 17 and 18 East, to the southerly right-of-way line of State Road No. 24; thence southwesterly along said southerly right-of-way line to the easterly right-of-way line of State Road No. 337; thence southerly, along said easterly right-of-way line of State Road No. 337, to the south line of Section 35, Township 14 South, Range 17 East; thence west along the section line to the northwest corner of Section 3, Township 15 South, Range 17 East; thence south along the section lines to the southwest corner of Section 27, Township 15 South, Range 17 East; thence west to the Gulf of Mexico; thence south along the Gulf of Mexico, including the waters of said gulf within the jurisdiction of the State of Florida, to the point of beginning.

(e) *South Florida Water Management District.*—Begin at the intersection of the north boundary of Lee County with the Gulf of Mexico; thence easterly along the Lee-Charlotte County line to the southwest corner of Section 34, Township 42 South, Range 24 East; thence northerly along the section lines to the northwest corner of Section 3, Township 42 South, Range 24 East; thence easterly along the Township line between Townships 41 and 42 South to the southwest corner of Section 31, Township 41 South, Range 26 East; thence northerly along the Range line between Ranges 25 and 26 East to the northwest corner of Section 6, Township 41 South, Range 26 East; thence easterly along the Township line between Townships 40 and 41 South to the southwest corner of Section 31, Township 40 South, Range 27 East; thence northerly along the Range line between Ranges 26 and 27 East to the Charlotte-DeSoto County line; thence easterly along the Charlotte-Desoto County line to the west line of Highlands County; thence northerly along the Highlands-Desoto County line and along the Highlands-Hardee County line to the northwest corner of Township 36 South, Range 28 East; thence east along the north boundary of Township 36 South to the northeast corner of Section 1, Township 36 South, Range 28 East; thence south along the range line to the southeast corner of Section 12, Township 37 South, Range 28 East; thence east along the section line to the northeast corner of Section 15, Township 37 South, Range 29 East; thence south along the section line to the southeast corner of Section 34, Township 37 South, Range 29 East; thence east along the township line to the northeast corner of Section 1, Township 38 South, Range 29 East; thence south along the range line to the southeast corner of Section 1, Township 39 South, Range 29 East; thence east along the section line to the northwest corner of Section 11, Township 39 South, Range 30 East; thence north along the section line to the southwest corner of Section 35, Township 38 South, Range 30 East; thence east along the township line to the southeast corner of the west $\frac{1}{4}$ of Section 35, Town-

ship 38 South, Range 30 East; thence north along the $\frac{1}{4}$ -section line of Sections 35, 26, and 23, Township 38 South, Range 30 East to the northeast corner of the west $\frac{1}{4}$ section of Section 23, Township 38 South, Range 30 East; thence west along the section line to the northwest corner of Section 23, Township 38 South, Range 30 East; thence north along the section line to the northwest corner of Section 2, Township 37 South, Range 30 East; thence west along the township line to the southwest corner of Section 34, Township 36 South, Range 30 East; thence north along the section line to the northwest corner of Section 3, Township 36 South, Range 30 East; thence west along the township line to the southwest corner of Section 31, Township 35 South, Range 30 East; thence north along the range line between Ranges 29 and 30 East, through Townships 35, 34, and 33 South, to the northwest corner of Township 33 South, Range 30 East, being on the Highlands-Polk County line; thence west along the Highlands-Polk County line to the southwest corner of Township 32 South, Range 29 East; thence north along the range line between Ranges 28 and 29 East, in Townships 32 and 31 South, to the northwest corner of Section 7 in Township 31 South, Range 29 East; thence east along the section line to the northeast corner of Section 7, Township 31 South, Range 29 East; thence north along the section line to the northwest corner of Section 17, Township 30 South, Range 29 East; thence east along the section line to the northeast corner of the west $\frac{1}{2}$ of Section 17, Township 30 South, Range 29 East; thence north along the $\frac{1}{2}$ -section line to the northeast corner of the west $\frac{1}{2}$ of Section 5, Township 30 South, Range 29 East; thence west along the section line to the southwest corner of Section 32, Township 29 South, Range 29 East; thence north along the section line to the northeast corner of Section 19 in Township 29 South, Range 29 East; thence west along the south boundaries of Section 18, Township 29 South, Range 29 East and Sections 13, 14, 15, 16, and 17 in Township 29 South, Range 28 East, to the southwest corner of said Section 17; thence north along the section line to the intersection of said section line with the west shore line of Lake Pierce in Township 29 South, Range 28 East; thence following the west shore of Lake Pierce to its intersection again with the west section line of Section 5, Township 29 South, Range 28 East; thence north along the section line to the northwest corner of Section 5, Township 29 South, Range 28 East; thence east along the township line to the southwest corner of Section 33, Township 28 South, Range 28 East; thence north along the section line to the northwest corner of the southwest $\frac{1}{4}$ of the southwest $\frac{1}{4}$ of Section 28, Township 28 South, Range 28 East; thence east along the $\frac{1}{4}$ -section line to the intersection of said $\frac{1}{4}$ -section line with Lake Pierce; thence follow the shore line northeasterly to its intersection with the $\frac{1}{2}$ -section line of Section 28, Township 28 South, Range 28 East; thence north on the $\frac{1}{2}$ -section line to the northwest corner of the southeast $\frac{1}{4}$ of Section 28, Township 28 South, Range 28 East; thence east along the $\frac{1}{2}$ -section line to the northeast corner of the southeast $\frac{1}{4}$ of Section 28, Township 28 South, Range 28 East; thence south along the section line to

the northwest corner of Section 3, Township 29 South, Range 28 East; thence east along the section line to the northeast corner of Section 3, Township 29 South, Range 28 East; thence north along the section line to the northwest corner of Section 23, Township 28 South, Range 28 East; thence west along the section line to the southwest corner of Section 16, Township 28 South, Range 28 East; thence north along the section line to the northwest corner of Section 16, Township 28 South, Range 28 East; thence west along the section line to the southwest corner of Section 8, Township 28 South, Range 28 East; thence north along the section line to the northwest corner of Section 5, Township 28 South, Range 28 East; thence west along the township line to the intersection of said township line with Lake Marion; thence following the south shore line of Lake Marion to its intersection again with said township line; thence west along the township line to the southeast corner of Section 36, Township 27 South, Range 27 East; thence north along the range line between Ranges 27 and 28 East to the intersection of said range line with Lake Marion; thence following the west shore of Lake Marion to its intersection again with the range line between Ranges 27 and 28 East; thence north along said range line, in Townships 27 and 26 South, to the northwest corner of Township 26 South, Range 28 East, being on the Polk-Osceola County line; thence west along the Polk-Osceola County line to the southwest corner of Township 25 South, Range 27 East; thence northerly along the range line between Ranges 26 and 27 East to the northwest corner of Section 18, Township 23 South, Range 27 East; thence easterly along the section lines to the southwest corner of Section 12, Township 23 South, Range 27 East; thence northerly along the section lines to the northwest corner of Section 1, Township 23 South, Range 27 East; thence easterly along the Township line between Townships 22 and 23 South to the southwest corner of Section 31, Township 22 South, Range 29 East; thence northerly along the Range line between Ranges 28 and 29 East to the northwest corner of Section 30, Township 22 South, Range 29 East; thence easterly along the section lines to the westerly right-of-way line of U.S. Highway 441; thence southerly along the westerly right-of-way line to the intersection with the northerly right-of-way line of State Road 528A; thence easterly along the northerly right-of-way line to the intersection with the northerly right-of-way line of State Road 528, also known as the Bee Line Expressway; thence easterly along the northerly right-of-way line of State Road 528 to the intersection with the range line between Township 23 South, Range 31 East and Township 23 South, Range 32 East; thence southerly along the Range line between Ranges 31 and 32 East to the Orange-Osceola County line; thence easterly along said county line between Townships 24 and 25 South to the northeast corner of Section 5, Township 25 South, Range 32 East; thence southerly along the section lines to the southeast corner of Section 32, Township 25 South, Range 32 East; thence easterly along the Township line between Townships 25 and 26 South to the northeast corner of Section 1, Township 26 South, Range 32 East; thence southerly along

the Range line between Ranges 32 and 33 East to the southeast corner of Section 36, Township 27 South, Range 32 East; thence westerly along the township line between Townships 27 and 28 South, to the northeast corner of Section 1, Township 28 South, Range 32 East; thence southerly along the Range line between Ranges 32 and 33 East to the southeast corner of Section 36, Township 29 South, Range 32 East; thence easterly along the Township line between Townships 29 and 30 South to the northeast corner of Section 1, Township 30 South, Range 33 East; thence southerly along the Range line between Ranges 33 and 34 East to the southeast corner of Section 36, Township 30 South, Range 33 East; thence westerly along the Township line between Townships 30 and 31 South to the northeast corner of Section 4, Township 31 South, Range 33 East; thence southerly along the section lines to the Osceola-Okeechobee County line; thence easterly along said county line to the northeast corner of Section 3, Township 33 South, Range 34 East; thence southerly along the section lines to the southeast corner of Section 34, Township 34 South, Range 34 East; thence easterly along the Township line between Townships 34 and 35 South to the southwest corner of Section 36, Township 34 South, Range 35 East; thence northerly along the section lines to the northwest corner of Section 13, Township 34 South, Range 35 East; thence easterly along the section line to the Range line between Ranges 35 and 36 East; thence northerly along said Range line to the northwest corner of Section 18, Township 34 South, Range 36 East; thence easterly along the section lines to the southwest corner of Section 10, Township 34 south, Range 36 East; thence northerly along the section line to the northwest corner of said Section 10; thence easterly along the section lines to the Okeechobee-St. Lucie County line; thence northerly along said county line to the south line of Indian River County; thence easterly along the St. Lucie-Indian River County line to the Atlantic Ocean; thence southerly along the Atlantic Ocean to the Gulf of Mexico; thence northerly along the Gulf of Mexico, including the waters of said Ocean and of said Gulf and the islands therein within the jurisdiction of the State of Florida, to the point of beginning.

History.—s. 12, part 1, ch. 72-299; s. 6, ch. 73-190; s. 1, ch. 75-125; s. 1, ch. 76-243; s. 113, ch. 77-104; s. 1, ch. 78-65.

373.0691 Transfer of areas.—

(1) At the time of change of boundaries of the respective districts under s. 373.069(3), all contractual obligations with respect to an area being transferred to another district shall be assumed by the district receiving such area; all real property interests owned by a district within an area to be transferred shall be conveyed to the district receiving such area; and all equipment, vehicles, other personal property, and records owned, located, and used by a district solely within an area being transferred shall be delivered to the district receiving such area. However, if an area is transferred from a district with a contractual obligation to the United States of America for the operation and maintenance of works within such area, then the deliveries and conveyances required in this section shall be deferred until the United States has ap-

proved the assumption of the contractual obligations by the receiving district.

(2) The change of boundaries shall not affect the continuing authority, obligations, and commitments of the water management districts, except as set forth in this section.

History.—s. 2, ch. 76-243.

373.0693 Basins; basin boards.—

(1) Any areas within a district may be designated by the district governing board as subdistricts or basins. The designation of such basins shall be made by the district governing board by resolutions thereof. The governing board of the district may change the boundaries of such basins, or create new basins, by resolution. No subdistrict or basin in the St. Johns Water Management District other than established by this act shall become effective until approved by the Legislature.

(2) Each basin shall be under the control of a basin board which shall be composed of not less than three members, but shall include one representative from each of the included counties in the basin.

(3) Each member of the various basin boards shall serve for a period of 3 years or until his successor is appointed, except that the board membership of each new basin shall be divided into three groups as equally as possible, with members in such groups to be appointed for 1, 2, and 3 years, respectively. Each basin board shall choose a vice chairman and a secretary to serve for a period of 1 year. The term of office of a basin board member shall be construed to commence on July 1 preceding the date of his appointment and to terminate June 30 of the year of the end of his term.

(4) Members of basin boards shall be appointed by the Governor, subject to confirmation by the Senate at the next regular session of the Legislature, and the refusal or failure of the Senate to confirm an appointment shall create a vacancy in the office to which the appointment was made.

(5) Basin board members shall receive no compensation for such services, but while officially on work for the district shall receive their actual traveling expenses and subsistence and lodging, not to exceed the statutory amount allowed state officers and employees, and other expenses in the actual amount incurred.

(6) Notwithstanding the provisions of any other general or special law to the contrary, a member of the governing board of the district residing in the basin or, if no member resides in the basin, a member of the governing board designated by the chairman of the governing board shall be the ex officio chairman of the basin board. The ex officio chairman shall preside at all meetings of the basin board, except that the vice chairman may preside in his absence. The ex officio chairman shall have no official vote, except in case of a tie vote being cast by the members, but shall be the liaison officer of the district in all affairs in the basin and shall be kept informed of all such affairs.

(7) At 11:59 p.m. on December 31, 1976, the Manasota Watershed Basin of the Ridge and Lower Gulf Coast Water Management District, which is annexed to the Southwest Florida Water Management

District by change of its boundaries pursuant to chapter 76-243, Laws of Florida, shall be formed into a subdistrict or basin of the Southwest Florida Water Management District, subject to the same provisions as the other basins in such district. Such subdistrict shall be designated initially as the Manasota Basin. The members of the governing board of the Manasota Watershed Basin of the Ridge and Lower Gulf Coast Water Management District shall become members of the governing board of the Manasota Basin of the Southwest Florida Water Management District.

(8)(a) At 11:59 p.m. on December 31, 1976, the area being transferred from the Southwest Florida Water Management District to the St. Johns River Water Management District by change of boundaries pursuant to chapter 76-243, Laws of Florida, shall be formed into a subdistrict or basin of the St. Johns River Water Management District. Such basin shall be designated as the Oklawaha River Basin. The members of the governing board of the Oklawaha River Basin of the Southwest Florida Water Management District shall become the members of the governing board of the newly formed basin. The governing board of the St. Johns River Water Management District may change the boundaries, but may not abolish the basin.

(b)1. On July 1, 1977, the entire area of the St. Johns River Water Management District, less those areas in the Oklawaha Basin, shall be formed into a subdistrict or basin of the St. Johns River Water Management District. Such area shall be designated as the Greater St. Johns River Basin.

2. The governing board of the St. Johns River Water Management District shall also serve as the governing board of the Greater St. Johns River Basin.

(9) At 11:59 p.m. on December 31, 1976, a portion of the Big Cypress Basin of the Ridge and Lower Gulf Coast District which is being annexed into the South Florida Water Management District by change of boundaries pursuant to chapter 76-243, Laws of Florida, shall be formed into a subdistrict or basin of the South Florida Water Management District. Such portion shall be designated as the Big Cypress Basin. On or before December 31, 1976, the Governor shall appoint not fewer than five persons residing in the area to serve as members of the governing board of the basin, effective at the time of transfer and subject to confirmation by the Senate as provided in subsection (4).

(a) The initial boundaries of the Big Cypress Basin shall be established by resolution of the governing board of Central and Southern Florida Flood Control District, after notice and hearing, and generally shall encompass the Big Cypress Swamp and southwestern coastal area hydrologic cataloging unit, as indicated on River Basin and Hydrologic Unit Map of Florida—1975, Florida Department of Natural Resources, Bureau of Geology Map Series No. 72.

(b) If the governing board shall fail to establish the initial boundaries on or before December 31, 1976, the initial boundaries shall be the same boundaries as described for the Big Cypress Basin of the Ridge and Lower Gulf Coast District.

(c) The governing board of the South Florida Water Management District subsequently may change the boundaries of the basin, but may not abolish the basin.

(10) At 11:59 p.m. on December 31, 1976, the entire area of the South Florida Water Management District, including all areas being annexed into the district pursuant to chapter 76-243, Laws of Florida, but less those areas in the Big Cypress Basin, shall be formed into a subdistrict or basin of the South Florida Water Management District. Such area shall be designated as the Okeechobee Basin.

(a) The governing board of the South Florida Water Management District shall also serve as the governing board of the Okeechobee Basin.

(b) The governing board of the South Florida Water Management District may change the boundaries of the Okeechobee Basin or may subdivide the basin into smaller basins to be governed by basin boards to be appointed by the Governor, subject to confirmation by the Senate as provided in subsection (4). However, the basin may not be enlarged to include the area included within the initial boundaries of the Big Cypress Basin.

(c) The local effort required in connection with construction, operation, and maintenance of the cooperative federal project referred to as the Central and Southern Florida Flood Control Project, which remains after the upper St. Johns portion is transferred to the St. Johns River Water Management District, shall be funded by tax levies on all taxable property within the Okeechobee Basin. In the event the Okeechobee Basin is subdivided into smaller basins, as authorized in paragraph (b), the governing board shall ascertain the equitable pro rata share for each smaller basin and charge back such share so as to insure that the portion of the Central and Southern Florida Flood Control Project remaining in the South Florida Water Management District shall continue to be funded on an equal basis throughout the entire Okeechobee Basin as initially described on December 31, 1976.

History.—s. 6, ch. 73-190; s. 3, ch. 76-243; s. 1, ch. 77-382; s. 1, ch. 79-50.

373.0695 Duties of basin boards; authorized expenditures.—

(1) The various boards shall be responsible for discharging the following described functions in their respective basins:

(a) The preparation of engineering plans for development of the water resources of the basin and the conduct of public hearings on such plans.

(b) The development and preparation of overall basin plan of secondary water control facilities for the guidance of subdrainage districts and private land owners in the development of their respective systems of water control which will be connected to the primary works of the basin to complement the engineering plan of primary works for the basin.

(c) The preparation of the annual budget for the basin and the submission of such budget to the governing board of the district for inclusion in the district budget.

(d) The consideration and prior approval of final

construction plans of the district for works to be constructed in the basin.

(e) The administration of the affairs of the basin.

(f) Planning for and, upon request by a county, municipality, or regional water supply authority, providing water supply and transmission facilities for the purpose of assisting such counties, municipalities, and regional water supply authorities within or serving the basin.

(2) Basin board moneys shall be utilized for:

(a) Engineering studies of works of the basin.

(b) Payment for the preparation of final plans and specifications for construction of basin works executed by the district.

(c) Payment of costs of construction of works of the basin executed by the district.

(d) Payment for maintenance and operation of basin works as carried out by the district.

(e) Administrative and regulatory activities of the basin.

(f) Payment for real property interests for works of the basin.

(g) Payment of costs of road, bridge, railroad, and utilities modifications and changes resulting from basin works.

(3) The works of the basin shall be those adopted by the respective basin boards. Such works may be adopted jointly with other basins and may be within or without the area of the basin.

(4) In the exercise of the duties and powers granted herein, the basin boards shall be subject to all the limitations and restrictions imposed on the water management districts in s. 373.1961.

History.—s. 6, ch. 73-190; s. 3, ch. 74-114.

373.0697 Basin taxes.—The respective basins may, pursuant to s. 9(b), Art. VII of the State Constitution, by resolution request the governing board of the district to levy ad valorem taxes within such basin. Upon receipt of such request, a basin tax levy shall be made by the governing board of the district to finance basin functions enumerated in s. 373.0695, notwithstanding the provisions of any other general or special law to the contrary, and subject to the provisions of s. 373.503(3).

(1) The amount of money to be raised by said tax levy shall be determined by the adoption of an annual budget by the district board of governors, and the average millage for the basin shall be that amount required to raise the amount called for by the annual budget when applied to the total assessment of the basin as determined for county taxing purposes. However, no such tax shall be levied within the basin unless and until the annual budget and required tax levy shall have been approved by formal action of the basin board, and no county in the district shall be taxed under this provision at a rate to exceed one mill.

(2) The taxes provided for in this section shall be extended by the county property appraiser on the county tax roll in each county within, or partly within, the basin and shall be collected by the tax collector in the same manner and time as county taxes, and the proceeds therefrom paid to the district for basin purposes. Said taxes shall be a lien, until paid, on the

property against which assessed and enforceable in like manner as county taxes. The property appraisers, tax collectors, and clerks of the circuit court of the respective counties shall be entitled to compensation for services performed in connection with such taxes at the same rates as apply to county taxes.

(3) It is hereby determined that the taxes authorized by this subsection are in proportion to the benefits to be derived by the several parcels of real estate within the basin from the works authorized herein.

History.—s. 6, ch. 73-190; s. 2, ch. 75-125; s. 5, ch. 76-243.

373.073 Governing board.—

(1)(a) The governing board of each water management district shall be composed of nine members who shall reside within the district. The term of office of members of the board shall be 4 years. Members of the governing boards continued under this chapter shall be appointed from the district at large as vacancies occur on the governing boards. Such vacancies shall be filled according to the residency requirements of paragraph (b).

(b) Notwithstanding the provisions of any other general or special law to the contrary, vacancies in the governing boards of the water management districts shall be filled according to the following residency requirements, representing areas designated by the U. S. Water Resources Council in U. S. Geological Survey, River Basin and Hydrological Unit Map of Florida—1975, Map Series No. 72:

1. Northwest Florida Water Management District:

a. One member shall reside in the area generally designated as the "Perdido River Basin-Perdido Bay Coastal Area-Lower Conecuh River-Escambia River Basin" hydrologic units and that portion of the "Escambia Bay Coastal Area" hydrologic unit which lies west of Pensacola Bay and Escambia Bay.

b. One member shall reside in the area generally designated as the "Blackwater River Basin-Yellow River Basin-Choctawhatchee Bay Coastal Area" hydrologic units and that portion of the "Escambia Bay Coastal Area" hydrologic unit which lies east of Pensacola Bay and Escambia Bay.

c. One member shall reside in the area generally designated as the "Choctawhatchee River Basin-St. Andrews Bay Coastal Area" hydrologic units.

d. One member shall reside in the area generally designated as the "Lower Chattahoochee-Apalachicola River-Chipola River Basin-Coastal Area between Ochlockonee River Apalachicola Rivers-Apalachicola Bay coastal area and offshore islands" hydrologic units.

e. One member shall reside in the area generally designated as the "Ochlockonee River Basin-St. Marks and Wakulla Rivers and coastal area between Aucilla and Ochlockonee River Basin" hydrologic units.

f. Four members shall be appointed at large, except that no county shall have more than two members on the governing board.

2. Suwannee River Water Management District:

a. One member shall reside in the area generally designated as the "Aucilla River Basin" hydrologic unit.

b. One member shall reside in the area generally designated as the "Coastal Area between Suwannee and Aucilla Rivers" hydrologic unit.

c. One member shall reside in the area generally designated as the "Withlacoochee River Basin-Alapaha River Basin-Suwannee River Basin above the Withlacoochee River" hydrologic units.

d. One member shall reside in the area generally designated as the "Suwannee River Basin below the Withlacoochee River excluding the Santa Fe River Basin" hydrologic unit.

e. One member shall reside in the area generally designated as the "Santa Fe Basin-Waccasassa River and coastal area between Withlacoochee and Suwannee River" hydrologic units.

f. Four members shall be appointed at large, except that no county shall have more than two members on the governing board.

3. St. Johns River Water Management District:

a. One member shall reside in the area generally designated as the "St. Mary River Basin-Coastal area between St. Marys and St. Johns Rivers" hydrologic units.

b. One member shall reside in the area generally designated as the "St. Johns River Basin below Oklawaha River-Coastal area between the St. Johns River and Ponce de Leon Inlet" hydrologic units.

c. One member shall reside in the area generally designated as the "Oklawaha River Basin" hydrologic unit.

d. One member shall reside in the area generally designated as the "St. Johns River Basin above the Oklawaha River" hydrologic unit.

e. One member shall reside in the area generally designated as the "Coastal area between Ponce de Leon Inlet and Sebastian Inlet-Coastal area Sebastian Inlet to St. Lucie River" hydrologic units.

f. Four members shall be appointed at large, except that no county shall have more than two members on the governing board.

4. South Florida Water Management District:

a. Two members shall reside in Dade County.

b. One member shall reside in Broward County.

c. One member shall reside in Palm Beach County.

d. One member shall reside in Collier County, Lee County, Hendry County, or Charlotte County.

e. One member shall reside in Glades County, Okeechobee County, Highlands County, Polk County, Orange County, or Osceola County.

f. Two members, appointed at large, shall reside in an area consisting of St. Lucie, Martin, Palm Beach, Broward, Dade, and Monroe Counties.

g. One member, appointed at large, shall reside in an area consisting of Collier, Lee, Charlotte, Hendry, Glades, Osceola, Okeechobee, Polk, Highlands, and Orange Counties.

h. No county shall have more than three members on the governing board.

5. Southwest Florida Water Management District:

a. One member shall reside in the river basin generally designated as the Withlacoochee River.

b. One member shall reside in the area generally

comprised of the Hillsborough, Alafia, and Little Manatee River basins.

c. One member shall reside in the river basin generally designated as the Peace River.

d. One member shall reside in the area generally comprised of the Manatee and Myakka River basins.

e. One member shall reside in the watershed basins lying north of the Anclote River basin and west of the Oklawaha River basin, excluding the Withlacoochee River.

f. One member shall reside in the watershed basins lying south of the northern limits of the Anclote River basin and west of the Hillsborough River basin, including all of Pinellas County.

g. Three members shall be appointed at large, except that no county shall have more than two members on the governing board, and Pinellas County and Hillsborough County shall each have two members.

(2) Members of the governing boards shall be appointed by the Governor, subject to confirmation by the Senate at the next regular session of the Legislature, and the refusal or failure of the Senate to confirm an appointment shall create a vacancy in the office to which the appointment was made.

History.—s. 13, part 1, ch. 72-299; s. 11, ch. 75-22; s. 6, ch. 76-243; s. 1, ch. 77-72; s. 3, ch. 80-259; s. 226, ch. 81-259.

373.076 Vacancies in the governing board; removal from office.—

(1) Vacancies occurring in the governing board of a district prior to the expiration of the affected term shall be filled for the unexpired term.

(2) The Governor shall have authority to remove from office any officer of said district in the manner and for cause defined by the laws of this state applicable to situations which may arise in said district.

History.—s. 14, part 1, ch. 72-299.

373.079 Members of governing board; oath of office; staff.—

(1) Each member of the governing board of the district, before entering upon his official duties, shall take and subscribe to an oath, before some officer authorized by law to administer oaths, that he will honestly, faithfully and impartially perform the duties devolving upon him in office as member of the governing board of the district to which he was appointed and that he will not neglect any of the duties imposed upon him by this chapter.

(2) Immediately after their appointment, and every 2 years thereafter, members composing the governing board shall meet at some convenient place and choose one of their number chairman of the board, and some suitable person secretary, who may or may not be a member of the governing board, and who may be required to execute bond for the faithful performance of his duties as the governing board may determine. Such board shall adopt a seal with a suitable device, and shall keep a well bound book entitled, in effect, "Record of Governing Board of _____ District," in which shall be recorded minutes of all meetings, resolutions, proceedings, certificates, bonds given by all employees, and any and all corporate acts, which book shall at reasonable times be open to

the inspection of any citizen of Florida or taxpayer in the district or his agent or attorney.

(3) The chairman and members of the board shall receive no compensation for such services, but while officially on work for the district shall receive their actual traveling expenses and subsistence and lodging, not to exceed the statutory amount allowed state officers and employees, and other expenses in the actual amount incurred therefor.

(4) The governing board of the district is authorized to employ an executive director and such engineers, other professional persons, and other personnel and assistants as the board may deem necessary and under such terms and conditions as it may determine, and to terminate such employment.

(5) The governing board may employ a legal staff for the purposes of:

(a) Providing legal counsel on matters relating to the exercise of its powers and duties;

(b) Representing it in all proceedings of an administrative or judicial nature; and

(c) Otherwise assisting in the administration of the provisions of this chapter.

(6) By resolution the governing board may determine the location of its principal office and provide for the change thereof.

(7) The governing board shall meet at least once a month and upon call of the chairman.

History.—s. 15, part 1, ch. 72-299.

373.083 General powers and duties of the governing board.—In addition to other powers and duties allowed it by law, the governing board is authorized to:

(1) Contract with public agencies, private corporations, or other persons; sue and be sued; and appoint and remove agents and employees, including specialists and consultants.

(2) Issue orders to implement or enforce any of the provisions of this chapter or regulations thereunder.

(3) Make surveys and investigations of the water supply and resources of the district and cooperate with other governmental agencies in similar activities.

History.—s. 16, part 1, ch. 72-299.

373.084 District works, operation by other governmental agencies.—The district may permit governing bodies of water conservation districts, drainage and other improvement districts, and federal, state and local governments, authorities or agencies to operate and maintain the works of the district under conditions which the governing board may deem advisable.

History.—s. 4, ch. 29790, 1955; s. 25, ch. 73-190.

Note.—Former s. 378.161.

373.085 Use of works by other districts.

(1) The governing board shall have authority to prescribe the manner in which local works provided by other districts or by private persons shall connect with and make use of the works of the district, to issue permits therefor, and to cancel the same for non-compliance with the conditions thereof, or for other

cause. It shall be unlawful to connect with or make use of the works of said district without consent in writing from its governing board, and said board shall have authority to prevent, or if done to estop or terminate the same.

(2) Damage resulting from unlawful use of such works, or from violations of the conditions of permit issued by the board shall, if made by other than a public agency, be subject to such penalty as is or may be prescribed by law and in addition thereto by a date and in a manner prescribed by the board, repair of said damage to the satisfaction of said board, or deposit with said board a sum sufficient therefor, and if by a public agency, then at the expense of such agency the repair of said damage to the satisfaction of the board or the deposit with said board of a sum sufficient therefor.

History.—s. 17, ch. 25209, 1949; s. 25, ch. 73-190.

Note.—Former s. 378.17.

373.086 Providing for district works.—

(1) In order to carry out the works for the district, and for effectuating the purposes of this chapter, the governing board is authorized to clean out, straighten, enlarge or change the course of any waterway, natural or artificial, within or without the district; to provide such canals, levees, dikes, dams, sluiceways, reservoirs, holding basins, floodways, pumping stations, bridges, highways and other works and facilities which the board may deem necessary; establish, maintain and regulate water levels in all canals, lakes, rivers, channels, reservoirs, streams or other bodies of water owned or maintained by the district; to cross any highway, or railway with works of the district and to hold, control and acquire by donation, lease or purchase, or to condemn any land, public or private, needed for rights-of-way or other purposes, and may remove any building or other obstruction necessary for the construction, maintenance and operation of the works, and to hold and have full control over the works and rights-of-way of the district.

(2) The works of said district shall be those adopted by the governing board of the district. The district may require or take over for operation and maintenance such works of other districts as the governing board may deem advisable under agreement with such districts.

History.—s. 16, ch. 25209, 1949; s. 2, ch. 29790, 1955; s. 1, ch. 61-147; s. 3, ch. 61-497; s. 2, ch. 63-224; s. 1, ch. 67-206; s. 1, part VI, ch. 72-299; s. 25, ch. 73-190.

Note.—Former s. 378.16.

373.087 District works using aquifer for storage and supply.—The governing board may establish works of the district for the purpose of introducing water into, or drawing water from, the underlying aquifer for storage or supply. However, only water of a compatible quality shall be introduced directly into such aquifer.

History.—s. 1, ch. 72-318.

373.089 Sale of lands.—The governing board of the district may sell lands to which the district has acquired title or to which it may hereafter acquire title in the following manner:

(1) Any lands determined by the governing board to be surplus may be sold by the district, at any time for the highest price obtainable.

(2) All sales of land shall be for cash or upon terms and security to be approved by the governing board, but a deed therefor shall not be executed and delivered until full payment is made.

(3) Before selling any land, except as provided in subsection (5) hereof, it shall be the duty of the district to cause a notice of intention to sell to be published in a newspaper published in the county in which said land is situated once each week for 3 successive weeks (three insertions being sufficient), the first publication of which shall be not less than 30 nor more than 45 days prior to any sale, which notice shall set forth the time and place of the sale and a description of lands to be offered for sale.

(4) All sales shall be conducted at the county courthouse in the county in which the land is located on any day of the week except Sunday and at any time specified in the notice between the hours of 11 a.m. and 2 p.m.

(5) Public sale shall not be required where surplus lands are being resold to the then owner of that adjacent parcel from which the surplus land was originally parted; provided such sale is made within 1 year from the time the land is declared surplus; and the owner of the adjacent parcel shall be notified by registered mail to the address shown on the county tax roll within 30 days after the land is declared surplus.

History.—s. 4, ch. 29790, 1955; s. 25, ch. 73-190.
Note.—Former s. 378.48.

373.093 Lease of lands or interest in land.—The governing board of the district may lease any lands or interest in land, including but not limited to oil and mineral rights, to which the district has acquired title, or to which it may hereafter acquire title in the following manner:

(1) For the best price and terms obtainable, to be determined by the board.

(2) Before leasing any land, or interest in land including but not limited to oil and mineral rights, the district shall cause a notice of intention to lease to be published in a newspaper published in the county in which said land is situated and such other places as the board may determine once each week for 3 successive weeks (three insertions being sufficient), the first publication of which shall be not less than 30 nor more than 45 days prior to any lease, which said notice shall set forth the time and place of leasing and a description of the lands to be leased.

(3) It shall not be necessary to publish the notice as provided by subsection (2) where the lease is made to a person in connection with land acquisition by the district and the lease results in a diminution of the cost to the district in the acquisition of the land.

History.—s. 4, ch. 29790, 1955; s. 25, ch. 73-190.
Note.—Former s. 378.49.

373.096 Releases.—The governing board of the district may release any canal easement, reservation or right-of-way interests, conveyed to it for which it has no present or apparent future use under terms and conditions determined by the board.

History.—s. 4, ch. 29790, 1955; s. 25, ch. 73-190.
Note.—Former s. 378.50.

373.099 Execution of instruments.—Any instruments of sale, lease, release or conveyance executed pursuant to the provisions of this chapter shall be executed in the name of the district by its governing board acting by the chairman or vice chairman of said board and shall have the corporate seal of the board affixed thereto attested by its secretary and any such instrument shall be effective to pass the title or interest of the district in the property conveyed; provided, the district shall not warrant the title to any property sold, leased, released or conveyed.

History.—s. 4, ch. 29790, 1955; s. 25, ch. 73-190.
Note.—Former s. 378.51.

373.103 Powers which may be vested in the governing board at the department's discretion.—In addition to the other powers and duties allowed it by law, the governing board of a water management district may be specifically authorized by the department to:

(1) Administer and enforce all provisions of this chapter, including the permit systems established in parts II, III, and IV of this chapter.

(2) Cooperate with the United States in the manner provided by Congress for flood control, reclamation, conservation, and allied purposes in protecting the inhabitants, the land, and other property within the district from the effects of a surplus or a deficiency of water when the same may be beneficial to the public health, welfare, safety, and utility.

(3) Plan, construct, operate, and maintain works of the district as defined in this chapter.

(4) Determine, establish, and control the level of waters to be maintained in all canals, lakes, rivers, channels, reservoirs, streams, or other bodies of water controlled by the district; to maintain such waters at the levels so determined and established by means of dams, locks, floodgates, dikes, and other structures; and to regulate the discharge into, or withdrawal from, the canals, lakes, rivers, channels, reservoirs, streams, or other bodies of water controlled by the district or which are a work of the district, including review of small watershed projects (Pub. L. No. 83-566).

(5) Expend, at the discretion of the governing board, for purposes of promotion, advertisement, and improvement of the program and objectives of the district, a yearly sum not to exceed 0.25 percent of the moneys collected by taxation within the district.

(6) Exercise such additional power and authority compatible with this chapter and other statutes and federal laws affecting the district as may be necessary to perform such duties and acts and to decide such matters and dispose of the same as are not specifically defined in or covered by statute.

(7) Prepare, in cooperation with the department, that part of the state water use plan applicable to the district.

History.—s. 17, part 1, ch. 72-299; s. 7, ch. 73-190; s. 2, ch. 80-259.

373.106 Permit required for construction involving underground formation.—

(1) No construction may be begun on a project involving artificial recharge or the intentional introduction of water into any underground formation except

as permitted in chapter 377, without the written permission of the governing board of any water management district within which the construction will take place. Such application shall contain the detailed plans and specifications for the construction of the project.

(2) A water management district may do any act necessary to replenish the ground water of said district. The district may, among other things, for the purposes of replenishing the ground water supplies within the district:

- (a) Buy water;
- (b) Exchange water;
- (c) Distribute water to persons in exchange for ceasing or reducing ground water extractions;
- (d) Spread, sink, and inject water into the underground;
- (e) Store, transport, recapture, reclaim, purify, treat, or otherwise manage and control water for the beneficial use of persons or property within the district; and
- (f) Build the necessary works to achieve ground water replenishment.

History.—s. 18, part I, ch. 72-299; s. 14, ch. 78-95.

373.107 Citation of rule.—In addition to any other provisions within this part or any rules promulgated hereunder, the permitting agency shall, when requesting information for a permit application pursuant to this part or such rules promulgated hereunder, cite a specific rule. If a request for information cannot be accompanied by a rule citation, failure to provide such information cannot be grounds to deny a permit.

History.—s. 3, ch. 79-161.

373.109 Permit application fees.—When a water management district governing board implements a permit system under part II, III, or IV of this chapter, it shall establish a schedule of fees for filing applications for the required permits. Such fees shall reflect the cost to the district for processing the application. However, permit fees shall not be required from any governmental entity.

(1) All moneys received under the provisions of this section shall be allocated for the use of the water management district and shall be in addition to moneys otherwise appropriated in any general appropriation act.

(2) The failure of any person to pay the fees established hereunder shall constitute grounds for revocation of his permit.

History.—s. 19, part I, ch. 72-299; s. 7, ch. 76-243.

373.113 Adoption of regulations by the governing board.—In administering the provisions of this chapter the governing board shall adopt, promulgate, and enforce such regulations as may be reasonably necessary to effectuate its powers, duties, and functions pursuant to the provisions of chapter 120.

History.—s. 20, part I, ch. 72-299.

373.114 Land and Water Adjudicatory Commission; review of district policies, rules, and orders.—The Governor and Cabinet, sitting as the

Land and Water Adjudicatory Commission, shall have the exclusive power by a vote of four of the members, to review, and may rescind or modify, any rule or order of a water management district, except those rules which involve only the internal management of the water management district, to insure compliance with the provisions and purposes of this chapter. Such review may be initiated at any time by the Governor and Cabinet, by the secretary, by the Environmental Regulation Commission, or by an interested party aggrieved by such rule or order, by filing a request for such review with the Land and Water Adjudicatory Commission and serving a copy on the water management district. Such request for review is not a precondition to the effectiveness of such rule or order, or to the seeking of judicial review as provided by ss. 373.133 and 120.68.

History.—s. 11, ch. 75-22.

373.116 Procedure for water use and impoundment construction permit applications.—

(1) Applications for water use permits, under part II of this chapter, and for permits for construction or alteration of dams, impoundments, reservoirs, and appurtenant works, under part IV of this chapter, shall be filed with the water management district on appropriate forms provided by the governing board.

(2) Upon receipt of an application for a permit of the type referred to in subsection (1), the governing board shall cause a notice thereof to be published in a newspaper having general circulation within the affected area. In addition, the governing board shall send, by regular mail, a copy of such notice to any person who has filed a written request for notification of any pending applications affecting this particular designated area.

History.—s. 21, part I, ch. 72-299; s. 14, ch. 78-95.

373.117 Certification by professional engineer.—

(1) If an application for a permit or license to conduct an activity regulated under this chapter requires the services of a professional engineer as regulated and defined by chapter 471, the department or governing board of a water management district may require, as a condition of granting a permit or license, that a professional engineer licensed under chapter 471 certify upon completion of the permitted or licensed activity that such activity has been completed in substantial conformance with the plans and specifications approved by the department or board.

(2) The cost of such certification by a professional engineer shall be borne by the permittee.

(3) No permitted or licensed activity which is required to be so certified shall be placed into use or operation until the professional engineer's certificate is filed with the department or board.

History.—s. 4, ch. 79-160.

373.119 Administrative enforcement procedures; orders.—

(1) Whenever the executive director of a water management district has reason to believe that a violation of any provision of this chapter or any regula-

tion promulgated thereunder or permits or order issued pursuant thereto has occurred, is occurring, or is about to occur, the executive director may cause a written complaint to be served upon the alleged violator or violators. The complaint shall specify the provision or provisions of this chapter or regulation or permit or order alleged to be violated or about to be violated and the facts alleged to constitute a violation thereof, and may order that necessary corrective action be taken within a reasonable time to be prescribed in such order. Any such order shall become final unless the person or persons named therein request by written petition a hearing no later than 14 days after the date such order is served.

(2) Whenever the executive director, with the concurrence and advice of the governing board, finds that an emergency exists requiring immediate action to protect the public health, safety, or welfare; the health of animals, fish or aquatic life; a public water supply; or recreational, commercial, industrial, agricultural or other reasonable uses, the executive director may, without prior notice, issue an order reciting the existence of such an emergency and requiring that such action be taken as the executive director deems necessary to meet the emergency.

(3) Any person to whom an emergency order is directed pursuant to subsection (2) shall comply therewith immediately, but on petition to the board shall be afforded a hearing as soon as possible.

History.—s. 22, part I, ch. 72-299; s. 14, ch. 78-95.

373.123 Penalty.—Any person, real or artificial, that shall construct or enlarge, or cause to be constructed or enlarged, a canal or shall enlarge or deepen a natural stream in such a manner as to permit salt water to move inland of an established saltwater barrier line, shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.083. Each day such movement of salt water shall continue, shall constitute a separate offense of the provisions of this law.

History.—s. 3, ch. 63-210; s. 324, ch. 71-136; s. 25, ch. 73-190.
Note.—Former s. 373.195.

373.129 Maintenance of actions.—The department, the governing board of any water management district, or any local board is authorized to commence and maintain proper and necessary actions and proceedings in any court of competent jurisdiction for any of the following purposes:

(1) To enforce rules, regulations and orders adopted or issued pursuant to this law.

(2) To enjoin or abate violations of the provisions of this law or rules, regulations and orders adopted pursuant thereto.

(3) To protect and preserve the water resources of the state.

(4) To defend all actions and proceedings involving its powers and duties pertaining to the water resources of the state.

History.—s. 16, ch. 57-380; s. 16, ch. 63-336; ss. 25, 35, ch. 69-106; s. 25, ch. 73-190; s. 42, ch. 79-65.
Note.—Former s. 373.221.

373.136 Enforcement of regulations and orders.—

(1) The governing board may enforce its regulations and orders adopted pursuant to this chapter, by suit for injunction or other appropriate action in the courts of the state.

(2) Any action by a citizen of the state to seek judicial enforcement of any of the provisions of this chapter shall be governed by the Florida Environmental Protection Act, s. 403.412.

History.—s. 25, part I, ch. 72-299.

373.139 Acquisition of real property.—

(1) The Legislature declares it to be necessary for the public health and welfare that water and water-related resources be conserved and protected. The acquisition of real property for this objective shall constitute a public purpose for which public funds may be expended.

(2) The governing board of the district is empowered and authorized to acquire fee title to real property and easements therein by purchase, gift, devise, lease, eminent domain, or otherwise for flood control, water storage, water management, and preservation of wetlands, streams and lakes, except that eminent domain powers may be used only for acquiring real property for flood control and water storage.

(3) Lands acquired for the purposes enumerated in subsection (2) may also be used for recreational purposes, and whenever practicable such lands shall be open to the general public for recreational uses.

(4) For the purpose of introducing water into, or drawing water from, the underlying aquifer for storage or supply, the governing board is authorized to hold, control, and acquire by donation, lease, or purchase any land, public or private.

(5) This section shall not limit the exercise of similar powers delegated by statute to any state or local governmental agency or other person.

History.—s. 26, part I, ch. 72-299; s. 1, ch. 72-316.

373.146 Publication of notices, process, and papers.—Whenever in this chapter the publication of any notice, process, or paper is required or provided for, unless otherwise provided by law, the publication thereof in some newspaper or newspapers as defined in chapter 50 having general circulation within the area to be affected shall be taken and considered as being sufficient.

History.—s. 44, ch. 25209, 1949; s. 27, part I, ch. 72-299; s. 25, ch. 73-190; s. 14, ch. 78-95.

Note.—Former s. 378.44.

373.149 Existing districts preserved.—The enactment of this act shall not affect the existence of the Central and Southern Florida Flood Control District created by chapter 25270, Laws of Florida, 1949, or the Southwest Florida Water Management District, created by chapter 61-691, Laws of Florida, or any contract or obligation of such districts entered into prior to the effective date of this act. The two districts shall continue to exercise the taxing powers authorized to them in the territories within their respective boundaries, except that nothing herein shall limit the department in considering and recommending to the 1973 session of the Legislature changes in the boundaries and transfers of funds, appropriations, personnel, property, or equipment between or

among the existing districts and districts created by this chapter. The two districts shall continue to exercise the powers presently authorized by chapters 378 and 373, notwithstanding provisions contained to the contrary in this chapter, until any such powers shall be specifically revoked or modified by the department pursuant to this chapter, except that the provisions of s. 373.139 relating to acquisition of real property shall apply.

History.—s. 28, part 1, ch. 72-299.

373.171 Rules and regulations.—

(1) In order to obtain the most beneficial use of the water resources of the state and to protect the public health, safety, and welfare and the interests of the water users affected, governing boards, by action not inconsistent with the other provisions of this law and without impairing property rights, may:

(a) Establish rules, regulations, or orders affecting the use of water, as conditions warrant, and forbidding the construction of new diversion facilities or wells, the initiation of new water uses, or the modification of any existing uses, diversion facilities, or storage facilities within the affected area.

(b) Regulate the use of water within the affected area by apportioning, limiting, or rotating uses of water or by preventing those uses which the governing board finds have ceased to be reasonable or beneficial.

(c) Make other rules, regulations, and orders necessary for the preservation of the interests of the public and of affected water users.

(2) In promulgating rules and regulations and issuing orders under this law, the governing board shall act with a view to full protection of the existing rights to water in this state insofar as is consistent with the purpose of this law.

(3) No rule, regulation or order shall require any modification of existing use or disposition of water in the district unless it is shown that the use or disposition proposed to be modified is detrimental to other water users or to the water resources of the state.

(4) All rules and regulations adopted by the governing board shall be filed with the Department of State as provided in chapter 120. An information copy will be filed with the Department of Environmental Regulation.

History.—s. 11, ch. 57-380; s. 8, ch. 63-336; ss. 10, 25, 35, ch. 69-106; s. 8, ch. 76-243; s. 1, ch. 77-117; s. 14, ch. 78-95.

373.175 Declaration of water shortage; emergency orders.—

(1) The governing board of the district may by order declare that a water shortage exists within all or part of the district when insufficient ground or surface water is available to meet the needs of the users or when conditions are such as to require temporary reduction in total use within the area to protect water resources from serious harm.

(2) The governing board may impose such restrictions on one or more users of the water resource as may be necessary to protect the water resources of the area from serious harm.

(3) When a water shortage is declared, the gov-

erning board shall cause notice thereof to be published in a prominent place within a newspaper of general circulation throughout the area. Publication of such notice shall serve as notice to all users in the area of the condition of water shortage.

(4) If an emergency condition exists due to a water shortage within any area of the district and the executive director of the district, with the concurrence of the governing board, finds that the exercise of powers under this section is not sufficient to protect the public health, safety, or welfare, the health of animals, fish, or aquatic life, a public water supply, or recreational, commercial, industrial, agricultural, or other reasonable uses, he may, pursuant to the provisions of chapter 120, issue emergency orders reciting the existence of such an emergency and requiring that such action, including, but not limited to, apportioning, rotating, limiting, or prohibiting the use of the water resources of the district, be taken as the executive director, with the concurrence of the governing board, deems necessary to meet the emergency.

(5) The Department of Natural Resources shall review, and may rescind, modify, or approve, any policy rule, regulation, or order of a water management district authorized by this section.

History.—s. 1, ch. 72-730; s. 25, ch. 73-190; s. 1, ch. 73-295; s. 14, ch. 78-95.

Note.—See s. 11, ch. 75-22 (s. 373.114), which vests exclusive authority to review policies, rules, regulations, and orders of water management districts in the Governor and Cabinet, sitting as the Land and Water Adjudicatory Commission.

Note.—Former s. 378.152.

373.191 County water conservation projects.—The several counties of the state may cooperate with the division by engaging in county water development and conservation projects and may use county funds and equipment for this purpose and to do all other things necessary in connection with the development and conservation of the county's water resources consistent with the provisions of this law and the rules and regulations adopted pursuant thereto.

History.—s. 13, ch. 57-380; ss. 25, 35, ch. 69-106.

373.196 Legislative findings.—

(1) It is the finding of the Legislature that cooperative efforts between municipalities, counties, water management districts, and the Department of Environmental Regulation are mandatory in order to meet the water needs of rapidly urbanizing areas in a manner which will supply adequate and dependable supplies of water where needed without resulting in adverse effects upon the areas from whence such water is withdrawn. Such efforts should utilize all practical means of obtaining water, including, but not limited to, withdrawals of surface water and ground water, recycling of waste water, and desalinization, and will necessitate not only cooperation but also well-coordinated activities. The purpose of this act is to provide additional statutory authority for such cooperative and coordinated efforts.

(2) Municipalities and counties are encouraged to create regional water supply authorities as authorized herein. It is further the intent that municipalities, counties, and regional water supply authorities are to have the primary responsibility for water supply, and water management districts and their basin boards

are to engage only in those functions that are incidental to the exercise of their flood control and water management powers.

(3) Nothing herein shall be construed to preclude the various municipalities and counties from continuing to operate existing water production and transmission facilities or to enter into cooperative agreements with other municipalities and counties for the purpose of meeting their respective needs for dependable and adequate supplies of water, provided the obtaining of water through such operations shall not be done in a manner which results in adverse effects upon the areas from whence such water is withdrawn.

History.—s. 1, ch. 74-114; s. 43, ch. 79-65.

373.1961 Water production.—In the performance of, and in conjunction with, its other powers and duties, the governing board of a water management district existing pursuant to chapter 373:

(1) May engage in planning to assist counties, municipalities, and regional water supply authorities in meeting the water supply needs of the rapidly urbanizing areas within its district in such manner as will give priority to reducing adverse environmental effects of improper or excessive withdrawals of water from concentrated areas.

(2) Upon request of a county, municipality, or regional water supply authority, shall assist such counties and municipalities and water supply authorities in meeting the water supply needs of the rapidly urbanizing areas within its district in such manner as will give priority to reducing adverse environmental effects of improper or excessive withdrawals of water from concentrated areas.

(3) At the request of a county, municipality, or regional water supply authority, may establish water production and transmission facilities for the purpose of supplying water to such counties, municipalities, and regional water supply authorities.

(4) Shall not engage in local distribution.

(5) Shall not deprive, directly or indirectly, any county wherein water is withdrawn of the prior right to the reasonable and beneficial use of water which is required to supply adequately the reasonable and beneficial needs of the county or any of the inhabitants or property owners therein.

(6) May provide water and financial assistance to regional water supply authorities, but may not provide water to counties and municipalities which are located within the area of such authority without the specific approval of the authority or, in the event of the authority's disapproval, the approval of the Governor and Cabinet sitting as the Land and Water Adjudicatory Commission. The district may supply water at rates and upon terms mutually agreed to by the parties or, if they do not agree, as set by the governing board and specifically approved by the Governor and Cabinet sitting as the Land and Water Adjudicatory Commission.

(7) May acquire title to such interest as is necessary in real property, by purchase, gift, devise, lease, eminent domain, or otherwise, for water production and transmission consistent with this section. However, the district shall not use any of the eminent do-

main powers herein granted to acquire water and water rights already devoted to reasonable and beneficial use or any water production or transmission facilities owned by any county, municipality, or regional water supply authority.

History.—s. 2, ch. 74-114; s. 14, ch. 76-243.

373.1962 Regional water supply authorities.

(1) By agreement between local governmental units created or existing pursuant to the provisions of Art. VIII of the State Constitution, pursuant to the Florida Interlocal Cooperation Act of 1969, s. 163.01, and upon the approval of the Governor and Cabinet sitting as head of the Department of Natural Resources to insure that such agreement will be in the public interest and complies with the intent and purposes of this act, regional water supply authorities may be created for the purpose of developing, storing, and supplying water for county or municipal purposes in such a manner as will give priority to reducing adverse environmental effects of excessive or improper withdrawals of water from concentrated areas. In approving said agreement the Governor and Cabinet, sitting as head of the Department of Natural Resources, shall consider, but not be limited to, the following:

(a) Whether the geographic territory of the proposed authority is of sufficient size and character to reduce the environmental effects of improper or excessive withdrawals of water from concentrated areas.

(b) The maximization of economic development of the water resources within the territory of the proposed authority.

(c) The availability of a dependable and adequate water supply.

(d) The ability of any proposed authority to design, construct, operate, and maintain water supply facilities in the locations, and at the times necessary, to insure that an adequate water supply will be available to all citizens within the authority.

(e) The effect or impact of any proposed authority on any municipality, county, or existing authority or authorities.

(f) The existing needs of the water users within the area of the authority.

(2) In addition to other powers and duties agreed upon, and notwithstanding the provisions of s. 163.01, such authority may:

(a) Upon approval of the electors residing in each county or municipality within the territory to be included in any authority, levy ad valorem taxes, not to exceed one-half mill, pursuant to s. 9(b), Art. VII of the State Constitution. No tax authorized by this paragraph shall be levied in any county or municipality without an affirmative vote of the electors residing in such county or municipality.

(b) Acquire water and water rights; develop, store, and transport water; provide, sell and deliver water for county or municipal uses and purposes; provide for the furnishing of such water and water service upon terms and conditions and at rates which will apportion to parties and nonparties an equitable

share of the capital cost and operating expense of the authority's work to the purchaser.

(c) Not engage in local distribution.

(d) Exercise the power of eminent domain in the manner provided by law for the condemnation of private property for public use to acquire title to such interest in real property as is necessary to the exercise of the powers herein granted, except water and water rights already devoted to reasonable and beneficial use or any water production or transmission facilities owned by any county or municipality.

(e) Issue revenue bonds in the manner prescribed by the Revenue Bond Act of 1953, as amended, part I, chapter 159, to be payable solely from funds derived from the sale of water by the authority to any county or municipality. Such bonds may be additionally secured by the full faith and credit of any county or municipality, as provided by s. 159.16 or by a pledge of excise taxes, as provided by s. 159.19. For the purpose of issuing revenue bonds, an authority shall be considered a "unit" as defined in s. 159.02(2) and as that term is used in the Revenue Bond Act of 1953, as amended. Such bonds may be issued to finance the cost of acquiring properties and facilities for the production and transmission of water by the authority to any county or municipality, which cost shall include the acquisition of real property and easements therein for such purposes. Such bonds may be in the form of refunding bonds to take up any outstanding bonds of the authority or of any county or municipality where such outstanding bonds are secured by properties and facilities for production and transmission of water, which properties and facilities are being acquired by the authority. Refunding bonds may be issued to take up and refund all outstanding bonds of said authority that are subject to call and termination, and all bonds of said authority that are not subject to call or redemption, when the surrender of said bonds can be procured from the holder thereof at prices satisfactory to the authority. Such refunding bonds may be issued at any time when, in the judgment of the authority, it will be to the best interest of the authority financially or economically by securing a lower rate of interest on said bonds or by extending the time of maturity of said bonds or, for any other reason, in the judgment of the authority, advantageous to said authority.

(f) Sue and be sued in its own name.

(g) Borrow money and incur indebtedness and issue bonds or other evidence of such indebtedness.

(h) Join with one or more other public corporations for the purpose of carrying out any of its powers and for that purpose to contract with such other public corporation or corporations for the purpose of financing such acquisitions, construction, and operations. Such contracts may provide for contributions to be made by each party thereto, for the division and apportionment of the expenses of such acquisitions and operations, and for the division and apportionment of the benefits, services, and products therefrom. Such contract may contain such other and further covenants and agreements as may be necessary and convenient to accomplish the purposes hereof.

(3) When it is found to be in the public interest,

for the public convenience and welfare, for a public benefit, and necessary for carrying out the purpose of any regional water supply authority, any state agency, county, water control district existing pursuant to chapter 298, water management district existing pursuant to chapter 373, municipality, governmental agency, or public corporation in this state holding title to any interest in land is hereby authorized, in its discretion, to convey the title to or dedicate land, title to which is in such entity, including tax reverted land, or to grant use-rights therein, to any regional water supply authority created pursuant to this section. Land granted or conveyed to such authority shall be for the public purposes of such authority and may be made subject to the condition that in the event said land is not so used, or if used and subsequently its use for said purpose is abandoned, the interest granted shall cease as to such authority and shall automatically revert to the granting entity.

(4) Each county or municipality which is a party to an agreement pursuant to subsection (1) shall have a preferential right to purchase water from the regional water supply authority for use by such county or municipality.

(5) In carrying out the provisions of this section, any county wherein water is withdrawn by the authority shall not be deprived, directly or indirectly, of the prior right to the reasonable and beneficial use of water which is required adequately to supply the reasonable and beneficial needs of the county or any of the inhabitants or property owners therein.

(6) Upon a resolution adopted by the governing body of any county or municipality, the authority may, subject to a majority vote of its voting members, include such county or municipality in its regional water supply authority upon such terms and conditions as may be prescribed.

(7) The authority shall design, construct, operate, and maintain facilities in the locations and at the times necessary to insure that an adequate water supply will be available to all citizens within the authority.

History.—s. 7, ch. 74-114; s. 1, ch. 77-174; s. 35, ch. 79-5.

Note.—Section 11, ch. 75-22 transferred powers, duties, and functions of the Department of Natural Resources relating to water management to the Department of Environmental Regulation.

373.1963 Assistance to West Coast Regional Water Supply Authority.—

(1) In lieu of the provisions in paragraph 373.1962(2)(a), the Southwest Florida Water Management District shall assist the West Coast Regional Water Supply Authority for a period of 5 years, terminating December 31, 1981, by levying an ad valorem tax, upon request of the authority, of not more than 0.05 mill on all taxable property within the limits of the authority. During such period the corresponding basin board ad valorem tax levies shall be reduced accordingly.

(2) The authority shall prepare its annual budget in the same manner as prescribed for the preparation of basin budgets, but such authority budget shall not be subject to review by the respective basin boards or by the governing board of the district.

(3) The annual millage for the authority shall be

the amount required to raise the amount called for by the annual budget when applied to the total assessment on all taxable property within the limits of the authority, as determined for county taxing purposes.

(4) The authority may, by resolution, request the governing board of the district to levy ad valorem taxes within the boundaries of the authority. Upon receipt of such request, together with formal certification of the adoption of its annual budget and of the required tax levy, the authority tax levy shall be made by the governing board of the district to finance authority functions.

(5) The taxes provided for in this section shall be extended by the property appraiser on the county tax roll in each county within, or partly within, the authority boundaries and shall be collected by the tax collector in the same manner and time as county taxes, and the proceeds therefrom paid to the district which shall forthwith pay them over to the authority. Until paid, such taxes shall be a lien on the property against which assessed and enforceable in like manner as county taxes. The property appraisers, tax collectors, and clerks of the circuit court of the respective counties shall be entitled to compensation for services performed in connection with such taxes at the same rates as apply to county taxes.

(6) The governing board of the district shall not be responsible for any actions or lack of actions by the authority.

History.—s. 13, ch. 76-243; s. 1, ch. 77-174.

373.1965 Kissimmee River Valley and Taylor Creek-Nubbins Slough Basin; coordinating council on restoration; project implementation.

(1) There is created the Coordinating Council on the Restoration of the Kissimmee River Valley and Taylor Creek-Nubbins Slough Basin. The council shall be composed of the Executive Director of the Department of Natural Resources, the Executive Director of the Florida Game and Fresh Water Fish Commission, the Executive Director of the Central and Southern Florida Flood Control District, and the Commissioner of the Department of Agriculture and Consumer Services, or their designees, and the Secretary of the Department of Environmental Regulation, who shall serve as chairman.

(2) In recognition of the complete findings of the Special Project to Prevent the Eutrophication of Lake Okeechobee, the council shall develop measures which are to be taken by the Department of Environmental Regulation, the Department of Natural Resources, the Game and Fresh Water Fish Commission, and the Central and Southern Florida Flood Control District to restore the water quality of the Kissimmee River Valley and Taylor Creek-Nubbins Slough Basin. Such measures shall be designed to minimize and ultimately remove the threats to the agricultural industry, the wildlife, and the people of central and southern Florida, posed by land uses and water-management practices which cause the degradation of water quality in such area and shall be designed to alleviate excessive nutrient loading from the Taylor Creek-Nubbins Slough Basin. In developing such measures, the council shall seek to:

(a) Conserve and improve ground and surface water supplies throughout the region.

(b) Improve the quality of water for all beneficial purposes throughout the region, and in Lake Okeechobee.

(c) Restore the natural seasonal water level fluctuations in the lakes of the Kissimmee River and in its natural flood plains and marshlands.

(d) Recreate conditions favorable to increases in production of wetland vegetation, native aquatic life, and wetland wildlife.

(e) Protect presently developed areas from unnatural floods, to the extent that such protection is now achievable.

(f) Utilize the natural and free energies of the river system to the greatest extent possible, so as to hold to a minimum all recurring annual needs of petroleum energy supplies.

(g) Provide for the effective enforcement of existing laws designed to prevent excessive nutrient loading of area waters.

(3) The Department of Environmental Regulation, the Department of Natural Resources, the Game and Fresh Water Fish Commission, and the Central and Southern Florida Flood Control District shall each implement and enforce those measures developed by the council which are within its jurisdiction. The Secretary of the Department of Environmental Regulation shall be responsible for the overall supervision of the enforcement of such measures.

(4) The Central and Southern Florida Flood Control District or its successor agency shall establish a Special Trust Fund for the Restoration of the Kissimmee River Valley and Lake Okeechobee, which shall be funded from State General Revenue, federal matching funds, donations, and district funds, provided that district funds shall equal 20 percent of State General Revenue funds.

(5) The Secretary of the Department of Environmental Regulation shall present to the Legislature, within 1 year of the effective date of this act, the council's comprehensive report and complete plans for implementation of the corrective actions required, including fund requirements, and the implementation of the program within 5 years after the effective date of this act. During the 5-year implementation period, the Secretary of the Department of Environmental Regulation shall present to the Legislature an annual, comprehensive, interim progress report.

(6) Upon completion of the entire program to the satisfaction of the council and the Legislature, the council shall cease to exist, and all funds and moneys remaining in the Special Fund shall be immediately paid over to the General Revenue Fund.

History.—s. 1, ch. 76-113.

373.197 Kissimmee River Valley and Taylor Creek-Nubbins Slough Basin restoration project; measures authorized.—

(1) The Legislature hereby directs the Florida Department of Environmental Regulation, in conjunction with the South Florida Water Management District, to seek appropriate authorization by the Congress of the United States for a restudy of the

Kissimmee River Valley and the Taylor Creek-Nubbins Slough Basin.

(2) The Legislature recommends that the authorization provide that the Board of Engineers for Rivers and Harbors, created under s. 3 of the Rivers and Harbors Act, approved June 13, 1902, be directed to review the report of the Chief of Engineers on Central and Southern Florida, published as House Document Numbered 643, Eightieth Congress, and other pertinent reports, with a view to determining whether any modification of the recommendations contained therein and of the system of works constructed pursuant thereto is advisable with respect to questions of the quality of water entering the Kissimmee River and Taylor Creek-Nubbins Slough and Lake Okeechobee therefrom, flood control, recreation, navigation, loss of fish and wildlife resources, other current and foreseeable environmental problems, and loss of environmental amenities in those areas. Potential modification alternatives, if any, shall include, but not be limited to, consideration of restoration of all or parts of the Kissimmee River below Lake Kissimmee and of the Taylor Creek-Nubbins Slough Basin.

(3) The Department and the Water Management District shall also seek to assure that this restudy be conducted by the Corps of Engineers in close cooperation with the Coordinating Council on the Restoration of the Kissimmee River Valley and the Taylor Creek-Nubbins Slough Basin and that the study be responsive to the problems and needs identified by the Coordinating Council and consider development of detailed physical and mathematical models to assess and predict these identified problems.

History.—s. 1, ch. 77-404.

PART II

PERMITTING OF CONSUMPTIVE USES OF WATER

- 373.203 Definitions.
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373.203 Definitions.—

(1) An "artesian well" is defined as an artificial hole in the ground from which water supplies may be obtained and which penetrates any water-bearing rock, the water in which is raised to the surface by natural flow, or which rises to an elevation above the top of the water-bearing bed. "Artesian wells" are defined further to include all holes, drilled as a source of water, that penetrate any water-bearing beds that are a part of the artesian water system of Florida, as determined by representatives of the Florida Geological Survey or Department of Environmental Regulation.

(2) "Waste" is defined to be the causing, suffering or permitting any water flowing from, or being pumped from, an artesian well to run into any river, creek, or other natural watercourse or channel, or into any bay or pond (unless used thereafter for the beneficial purposes of irrigation of land, mining or other industrial purposes of domestic use), or into any street, road or highway, or upon the land of any person, or upon the public lands of the United States or of the state, unless it be used thereon for the beneficial purposes of the irrigation thereof, industrial purposes, domestic use, or the propagation of fish. The use of any water flowing from an artesian well for the irrigation of land shall be restricted to a minimum by the use of proper structural devices in the irrigation system.

History.—ss. 3, 4, ch. 28253, 1953; s. 1, ch. 59-248; ss. 25, 35, ch. 69-106; s. 25, ch. 73-190; s. 44, ch. 79-65.

Note.—Former ss. 370.051, 373.021.

373.206 Artesian wells; flow regulated.—Every person, stock company, association or corporation, county or municipality owning or controlling the real estate upon which is located a flowing artesian well in this state shall, within 90 days after June 15, 1953, provide each such well with a valve capable of controlling the discharge from the well, and shall keep the valve so adjusted that only a supply of water shall be available as is necessary for ordinary use by the owner, tenant, occupant or person in control of the land for personal use and on conducting his business. However, if the water in a well is so highly mineralized or otherwise of such poor quality that it is no longer a usable water supply, as determined by the Department of Environmental Regulation, then it shall be plugged in accordance with the department's specifications for well plugging.

History.—s. 1, ch. 28253, 1953; s. 1, ch. 65-460; ss. 25, 35, ch. 69-106; s. 25, ch. 73-190; s. 45, ch. 79-65.

Note.—Former ss. 370.052, 373.031.

373.209 Artesian wells; penalties for violation.—

(1) No owner, tenant, occupant, or person in control of an artesian well shall knowingly and intentionally:

(a) Allow the well to flow continuously without a valve or mechanical device for checking or controlling the flow.

(b) Permit the water to flow unnecessarily.

(c) Pump a well unnecessarily.

(d) Permit the water from the well to go to waste.

(2) A well is exempt from the provisions of this

section unless the Department of Environmental Regulation can show that the uncontrolled flow of water from the well does not have a reasonable and beneficial use, as defined in s. 373.019(5).

(3) Any person who violates any provision of this section shall be subject to either:

(a) The remedial measures provided for in s. 373.436; or

(b) A civil penalty of \$100 a day for each and every day of such violation and for each and every act of violation. The civil penalty may be recovered by the water management board of the water management district in which the well is located or by the department in a suit in a court of competent jurisdiction in the county where the defendant resides, in the county of residence of any defendant if there is more than one defendant, or in the county where the violation took place. The place of suit shall be selected by the board or department, and the suit, by direction of the board or department, shall be instituted and conducted in the name of the board or department by appropriate counsel. The payment of any such damages does not impair or abridge any cause of action which any person may have against the person violating any provision of this section.

(4) The penalties provided by this section shall apply notwithstanding any provisions of law to the contrary.

History.—s. 2, ch. 28253, 1953; s. 323, ch. 71-136; s. 25, ch. 73-190; s. 1, ch. 74-279; s. 46, ch. 79-65; s. 146, ch. 79-400.

Note.—Former ss. 370.053, 373.041.

373.213 Certain artesian wells exempt.

—Nothing in ss. 370.051-370.055 shall be construed to apply to an artesian well feeding a lake already in existence prior to June 15, 1953, which lake is used or intended to be used for public bathing and/or the propagation of fish, where the continuous flow of water is necessary to maintain its purity for bathing and the water level of said lake for fish.

History.—s. 6, ch. 28253, 1953; s. 25, ch. 73-190.

Note.—Former ss. 370.055, 373.061.

373.216 Implementation of program for regulating the consumptive use of water.—The department may authorize the governing board of a water management district to implement a program for the issuance of permits authorizing the consumptive use of particular quantities of water. Notice of any required hearing on the proposed implementation of these regulations shall be published at least once a week for 2 weeks in a newspaper of general circulation in the area to be affected by such regulations, the last notice appearing no less than 10 days prior to the date of the public hearing, in addition to any notice required by chapter 120.

History.—s. 1, part II, ch. 72-299; s. 8, ch. 73-190; s. 14, ch. 78-95.

373.217 Superseded laws and regulations.—

(1) It is the intent of the Legislature to provide a means whereby reasonable programs for the issuance of permits authorizing the consumptive use of particular quantities of water may be authorized by the Department of Environmental Regulation, subject to judicial review and also subject to review by the Govern-

nor and Cabinet, sitting as the Land and Water Adjudicatory Commission as provided in s. 373.114.

(2) It is the further intent of the Legislature that Part II of the Florida Water Resources Act of 1972, as amended, as set forth in ss. 373.203-373.249, shall provide the exclusive authority for requiring permits for the consumptive use of water and for authorizing transportation thereof pursuant to s. 373.223(2).

(3) If any provision of Part II of the Florida Water Resources Act of 1972, as amended, as set forth in ss. 373.203-373.249, is in conflict with any other provision, limitation, or restriction which is now in effect under any law or ordinance of this state or any political subdivision or municipality, or any rule or regulation promulgated thereunder, Part II shall govern and control, and such other law or ordinance or rule or regulation promulgated thereunder shall be deemed superseded for the purpose of regulating the consumptive use of water. However, this section shall not be construed to supersede the provisions of the Florida Electrical Power Plant Siting Act.

(4) Other than as provided in subsection (3) of this section, Part II of the Florida Water Resources Act of 1972, as amended, preempts the regulation of the consumptive use of water as defined in this act.

History.—s. 9, ch. 76-243; s. 1, ch. 77-174.

373.219 Permits required.—

(1) 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. However, no permit shall be required for domestic consumption of water by individual users.

(2) In the event that any person shall file a complaint with the governing board or the department that any other person is making a diversion, withdrawal, impoundment, or consumptive use of water not expressly exempted under the provisions of this chapter and without a permit to do so, the governing board or the department shall cause an investigation to be made, and if the facts stated in the complaint are verified the governing board or the department shall order the discontinuance of the use.

History.—s. 2, part II, ch. 72-299; s. 9, ch. 73-190.

373.223 Conditions for a permit.—

(1) To obtain a permit pursuant to the provisions of this chapter, the applicant must establish that the proposed use of water:

(a) Is a reasonable beneficial use as defined in s. 373.019(5); and

(b) Will not interfere with any presently existing legal use of water; and

(c) Is consistent with the public interest.

(2) The governing board or the department may authorize the holder of a use permit to transport and use ground or surface water beyond overlying land, across county boundaries, or outside the watershed from which it is taken if the governing board or department determines that such transport and use is consistent with the public interest, and no local gov-

ernment shall adopt or enforce any law, ordinance, rule, regulation, or order to the contrary.

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

History.—s. 3, part II, ch. 72-299; s. 10, ch. 73-190; s. 10, ch. 76-243.

373.224 Existing permits.—Any permits or permit agreements for consumptive use of water executed or issued by an existing flood control, water management, or water regulatory district pursuant to chapter 373 or chapter 378 prior to December 31, 1976, shall remain in full force and effect in accordance with its terms until otherwise modified or revoked as authorized herein.

History.—s. 11, ch. 73-190; s. 3, ch. 75-125.

373.226 Existing uses.—

(1) All existing uses of water, unless otherwise exempted from regulation by the provisions of this chapter, may be continued after adoption of this permit system only with a permit issued as provided herein.

(2) The governing board or the department shall issue an initial permit for the continuation of all uses in existence before the effective date of implementation of this part if the existing use is a reasonable beneficial use as defined in s. 373.019(5) and is allowable under the common law of this state.

(3) Application for permit under the provisions of subsection (2) must be made within a period of 2 years from the effective date of implementation of these regulations in an area. Failure to apply within this period shall create a conclusive presumption of abandonment of the use, and the user, if he desires to revive the use, must apply for a permit under the provisions of s. 373.229.

History.—s. 4, part II, ch. 72-299; s. 12, ch. 73-190.

373.229 Application for permit.—

(1) All permit applications filed with the governing board or the department under this part and notice thereof required under s. 373.116 shall contain:

- (a) The name of the applicant and his address or, in the case of a corporation, the address of its principal business office;
- (b) The date of filing;
- (c) The date set for a hearing, if any;
- (d) The source of the water supply;
- (e) The quantity of water applied for;
- (f) The use to be made of the water and any limitation thereon;
- (g) The place of use;
- (h) The location of the well or point of diversion; and
- (i) Such other information as the governing board or the department may deem necessary.

(2) The notice shall state that written objections to the proposed permit may be filed with the governing board or the department by a specified date. The governing board or the department, at its discretion, may request further information from either applicant or objectors, and a reasonable time shall be allowed for such responses.

(3) If the proposed application is for less than 100,000 gallons per day, the governing board or the department may consider the application and any objections thereto without a hearing. If the proposed application is for 100,000 gallons per day or more and no objection is received, the governing board or the department, after proper investigation by its staff, may, at its discretion, approve the application without a hearing.

History.—s. 5, part II, ch. 72-299; s. 13, ch. 73-190; s. 11, ch. 76-243; s. 1, ch. 77-174.

373.232 Citation of rule.—In addition to any other provisions within this part or any rules promulgated hereunder, the permitting agency shall, when requesting information for a permit application pursuant to this part or such rules promulgated hereunder, cite a specific rule. If a request for information cannot be accompanied by a rule citation, failure to provide such information cannot be grounds to deny a permit.

History.—s. 4, ch. 79-161.

373.233 Competing applications.—

(1) If two or more applications which otherwise comply with the provisions of this part are pending for a quantity of water that is inadequate for both or all, or which for any other reason are in conflict, the governing board or the department shall have the right to approve or modify the application which best serves the public interest.

(2) In the event that two or more competing applications qualify equally under the provisions of subsection (1), the governing board or the department shall give preference to a renewal application over an initial application.

History.—s. 6, part II, ch. 72-299.

373.236 Duration of permits.—

(1) Permits may be granted for any period of time not exceeding 20 years. The governing board or the department may base duration of permits on a reasonable system of classification according to source of supply or type of use, or both.

(2) The governing board or the department may authorize a permit of duration of up to 50 years in the case of a municipality or other governmental body or of a public works or public service corporation where such a period is required to provide for the retirement of bonds for the construction of waterworks and waste disposal facilities.

History.—s. 7, part II, ch. 72-299.

373.239 Modification and renewal of permit terms.—

(1) A permittee may seek modification of any terms of an unexpired permit.

(2) If the proposed modification involves water

use of 100,000 gallons or more per day, the application shall be treated under the provisions of s. 373.229 in the same manner as the initial permit application. Otherwise, the governing board or the department may at its discretion approve the proposed modification without a hearing, provided the permittee establishes that:

(a) A change in conditions has resulted in the water allowed under the permit becoming inadequate for the permittee's need, or

(b) The proposed modification would result in a more efficient utilization of water than is possible under the existing permit.

(3) All permit renewal applications shall be treated under this part in the same manner as the initial permit application.

History.—s. 8, part II, ch. 72-299; s. 14, ch. 73-190.

373.243 Revocation of permits.—The governing board or the department may revoke a permit as follows:

(1) For any material false statement in an application to continue, initiate, or modify a use, or for any material false statement in any report or statement of fact required of the user pursuant to the provisions of this chapter, the governing board or the department may revoke the user's permit, in whole or in part, permanently. *

(2) For willful violation of the conditions of the permit, the governing board or the department may permanently or temporarily revoke the permit, in whole or in part.

(3) For violation of any provision of this chapter, the governing board or the department may revoke the permit, in whole or in part, for a period not to exceed 1 year.

(4) For nonuse of the water supply allowed by the permit for a period of 2 years or more, the governing board or the department may revoke the permit permanently and in whole unless the user can prove that his nonuse was due to extreme hardship caused by factors beyond his control.

(5) The governing board or the department may revoke a permit, permanently and in whole, with the written consent of the permittee.

History.—s. 9, part II, ch. 72-299; s. 14, ch. 78-95.

373.244 Temporary permits.—

(1) The governing board of a water management district may issue, or may authorize its executive director to issue, temporary permits for the consumptive use of water while an application is pending for a permit pursuant to ss. 373.219 and 373.229.

(2) Such a temporary permit shall be issued for a period of time to expire on the day following the next regular meeting of the governing board. At such meeting, the governing board shall consider whether it appears that the proposed use meets the criteria set forth in s. 373.223(1) and that such temporary permit is necessary for consumptive use of water prior to final action on an application for a permit pursuant to ss. 373.219 and 373.229.

(3) The governing board may summarily extend the term of a temporary permit for subsequent peri-

ods of time to expire on or before the day following the next regular meeting of the governing board.

(4) The board shall review temporary permits at each regular meeting and may terminate a temporary permit or refuse to extend it further upon a finding that the water use does not meet the criteria set forth in s. 373.223(1) or that adverse effects are occurring as a result of water use under the temporary permit or that the water authorized to be used under such permit is no longer required by the permit holder.

(5) The notice and hearing that might otherwise be required pursuant to s. 373.116(2) and chapter 120 shall not be required prior to issuance or extension of a temporary permit pursuant to the provisions of this section.

(6) Issuance of a temporary permit pursuant to the provisions of this section shall not in any way be construed as a commitment to issue a permit pursuant to ss. 373.219 and 373.229. No action taken by the governing board, or by the executive director if so authorized, shall be construed to estop the governing board from subsequently denying an application for a permit pursuant to ss. 373.219 and 373.229.

History.—s. 1, ch. 79-160.

373.246 Declaration of water shortage or emergency.—

(1) The governing board or the department by regulation shall formulate a plan for implementation during periods of water shortage. As a part of this plan the governing board or the department shall adopt a reasonable system of permit classification according to source of water supply, method of extraction or diversion, use of water, or a combination thereof.

(2) The governing board or the department by order may declare that a water shortage exists within all or part of the district when insufficient water is available to meet the requirements of the permit system or when conditions are such as to require temporary reduction in total use within the area to protect water resources from serious harm. Such orders shall be final agency action.

(3) In accordance with the plan adopted under subsection (1), the governing board or the department may impose such restrictions on one or more classes of permits as may be necessary to protect the water resources of the area from serious harm and to restore them to their previous condition.

(4) A declaration of water shortage and any measures adopted pursuant thereto may be rescinded by the governing board or the department.

(5) When a water shortage is declared, the governing board or the department shall cause notice thereof to be published in a prominent place within a newspaper of general circulation throughout the area. Publication of such notice shall serve as notice to all users in the area of the condition of water shortage.

(6) The governing board or the department shall notify each permittee in the district by regular mail of any change in the condition of his permit or any suspension of his permit or of any other restriction on his use of water for the duration of the water shortage.

(7) If an emergency condition exists due to a water shortage within any area of the district, and if the department, or the executive director with the concurrence of the governing board, finds that the exercise of powers under subsection (1) are not sufficient to protect the public health, safety, or welfare, the health of animals, fish or aquatic life, a public water supply, or recreational, commercial, industrial, agricultural, or other reasonable uses, it or he may, pursuant to the provisions of s. 373.119, issue orders reciting the existence of such an emergency and requiring that such action, including but not limited to apportioning, rotating, limiting, or prohibiting the use of the water resources of the district, be taken as the department or the executive director deems necessary to meet the emergency.

(8) An affected party to whom an emergency order is directed under subsection (7) shall comply immediately, but may challenge such an order in the manner set forth in s. 373.119.

History.—s. 10, part II, ch. 72-299; s. 14, ch. 78-95.

373.249 Existing regulatory districts preserved.—The enactment of this chapter shall not affect any existing water regulatory districts pursuant to chapter 373, or orders issued by said regulatory districts, unless specifically revoked, modified, or amended by such regulatory district or by the department.

History.—s. 11, part II, ch. 72-299.

~~PART III~~

REGULATION OF WELLS

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373.303 Definitions.—As used in this part:

(1) "Abandoned water well" means a well the use of which has been permanently discontinued. Any well shall be deemed abandoned which is in such a state of disrepair, as determined by a representative of the department, that continued use for the purpose of obtaining groundwater or disposing of water or liquid wastes is impracticable.

(2) "Construction of water wells" means all parts necessary to obtain groundwater by wells, including the location and excavation of the well, but excluding the installation of pumps and pumping equipment.

(3) "Department" means the Department of Environmental Regulation.

(4) "Political subdivision" means a city, town, county, district, or other public body created by or pursuant to state law, or any combination thereof acting cooperatively or jointly.

(5) "Repair" means any action which involves the physical alteration or replacement of any part of a well, but does not include the alteration or replacement of any portion of a well which is above ground surface.

(6) "Well" means any excavation that is drilled, cored, bored, washed, driven, dug, jetted, or otherwise constructed when the intended use of such excavation is for the location, acquisition, development, or artificial recharge of groundwater, but such term does not include sand-point wells as herein defined, or any well for the purpose of obtaining or prospecting for oil, natural gas, minerals, or products of mining or quarrying, for inserting media to dispose of oil brines or to repressure oil-bearing or natural gas-bearing formation, or for storing petroleum, natural gas, or other products.

(7) "Water well contractor" means any person, firm, or corporation engaged in the business of constructing water wells.

(8) "Well seal" means an approved arrangement or device to prevent contaminants from entering the well at the upper terminal.

(9) "Sand-point well" means any device which is driven into place and which consists of a pipe with an attached perforated metal tube or screen designed to permit the passage of water.

History.—s. 1, part III, ch. 72-299; s. 228, ch. 81-259.

373.306 Scope.—No person shall construct, repair, abandon, or cause to be constructed, repaired, or abandoned, any water well contrary to the provisions of this part and applicable rules and regulations. This part shall not apply to equipment used temporarily for dewatering purposes or to the process used in dewatering.

History.—s. 2, part III, ch. 72-299; s. 15, ch. 73-190.

373.308 Implementation of programs for regulating water wells.—

(1) The department may authorize the governing board of a water management district to implement a program for the issuance of permits for the location, construction, repair, and abandonment of water wells.

(2) The department may authorize the governing board of a water management district to exercise any power authorized to be exercised by the department under ss. 373.309, 373.313, 373.316, 373.319, 373.323, 373.326, 373.329, and 373.333 and may withhold from delegation such power as the department chooses not to delegate.

(3) Notwithstanding the provision in this section for delegation of authority to a water management district, the department may prescribe minimum standards for the location, construction, repair, and abandonment of water wells throughout all or parts of the state, as may be determined by the department.

History.—s. 2, ch. 79-100.

373.309 Authority to adopt rules, regulations, and procedures.—The department shall adopt, and may from time to time amend, rules and regulations governing the location, construction, repair, and abandonment of water wells and shall be responsible for the administration of this part. With respect thereto, it shall:

(1) Enforce the provisions of this part and any rules and regulations adopted pursuant thereto.

(2) Delegate, at its discretion, to any political subdivision any of its authority under this part in the administration of the rules and regulations adopted hereunder.

(3) Establish procedures and forms for the submission, review, approval, and rejection of applications, notifications, and reports required under this part.

(4) Require at its discretion the making and filing of logs, and the saving of cuttings and cores, which shall be delivered to the department.

(5) Issue such additional regulations and take such other actions as may be necessary to carry out the provisions of this part.

History.—s. 3, part III, ch. 72-299; s. 229, ch. 81-259.

373.313 Prior permission and notification.

(1) Taking into consideration other applicable state laws, in any geographical area where the department determines such permission to be reasonably necessary to protect the groundwater resources, prior permission shall be obtained from the department for each of the following:

- (a) The construction of any water well;
- (b) The repair of any water well; or
- (c) The abandonment of any water well.

However, in any area where undue hardship might arise by reason of such requirement, prior permission will not be required.

(2) The department shall be notified of any of the following whenever prior permission is not required:

- (a) The construction of any water well;
- (b) The repair of any water well; or
- (c) The abandonment of any water well.

History.—s. 4, part III, ch. 72-299.

373.314 Citation of rule.—In addition to any other provisions within this part or any rules promulgated hereunder, the permitting agency shall, when requesting information for a permit application pursuant to this part or such rules promulgated hereunder, cite a specific rule. If a request for information cannot be accompanied by a rule citation, failure to provide such information cannot be grounds to deny a permit.

History.—s. 5, ch. 79-161.

373.316 Existing installations.—No well in existence on the effective date of this part shall be required to conform to the provisions of s. 373.313 or any rules or regulations adopted pursuant thereto. However, any well now or hereafter abandoned or repaired as defined in this part shall be brought into compliance with the requirements of this part and

any applicable rules or regulations with respect to abandonment of wells, and any well which is determined by the department to be a hazard to the groundwater resources must comply with the provisions of this part and applicable rules and regulations within a reasonable time after notification of such determination has been given.

History.—s. 5, part III, ch. 72-299.

~~373.309 Inspections.~~

(1) The department is authorized to inspect any water well or abandoned water well. Duly authorized representatives of the department may at reasonable times enter upon and shall be given access to any premises for the purpose of such inspection.

(2) If upon the basis of such inspections the department finds applicable laws, rules, or regulations have not been complied with, it shall disapprove the well. If disapproved, no well shall thereafter be used until brought into compliance with the rules and regulations promulgated under this law.

History.—s. 6, part III, ch. 72-299; s. 14, ch. 78-95.

~~373.309 Licenses.~~

Every person who wishes to engage in business as a water well contractor shall obtain from the department a license to conduct such business.

(2) The department may adopt and from time to time amend rules and regulations governing applications for water well contractor licenses. The department shall license as a water well contractor any person properly making application therefor who is an adult for all legal purposes, has knowledge of rules and regulations adopted under this part, and has had not less than 2 years' experience in the work for which he is applying for a license. The department shall prepare an examination which each such applicant must pass in order to qualify for such license.

This section shall not apply to any person who performs labor or services at the direction and under the supervision of a licensed water well contractor.

(4) A political subdivision engaged in well-drilling shall be licensed under this part but shall be exempt from paying the license fees for the drilling done by regular employees of, and with equipment owned by, it.

(5) Licenses issued pursuant to this section are not transferable and shall expire on July 1 of each year. A license may be renewed without examination for an ensuing year by making application not later than 30 days after the expiration date and paying the applicable fee. Such application shall have the effect of extending the validity of the current license until a new license is received or the applicant is notified by the department that it has refused to renew his license. After July 31 of each year, a license will be renewed only upon application and payment of the applicable fee plus a penalty of \$50.

(6) Whenever the department determines that the holder of any license issued pursuant to this section has violated any provision of this part or any rule or regulation adopted pursuant thereto, the department is authorized to suspend or revoke any such license. Any order issued pursuant to this subsection

shall become effective 30 days after service thereof unless a written petition requesting hearing under the procedure provided in chapter 120 is filed sooner.

(7) No application for a license issued pursuant to this section may be made within 1 year after revocation thereof.

History.—s. 7, part III, ch. 72-299; s. 114, ch. 77-104; s. 14, ch. 78-95.

373.326 Exemptions.—

(1) When the department finds that compliance with all requirements of this part would result in undue hardship, an exemption from any one or more such requirements may be granted by the department to the extent necessary to ameliorate such undue hardship and to the extent such exemption can be granted without impairing the intent and purpose of this part.

Nothing in this part shall prevent a person who has not obtained a license pursuant to s. 373.323 from constructing a well that is 2 inches or under in diameter, on his own or leased property, intended for use only in a single family house which is his residence, or intended for use only for farming purposes on his farm, and when the waters to be produced are not intended for use by the public or any residence other than his own. Such persons shall comply with all rules and regulations as to construction of wells adopted under this part.

History.—s. 8, part III, ch. 72-299.

373.329 Fees.—The following fees are required:

(1) A fee of \$100 shall accompany each new application for a license required under s. 373.323.

(2) A fee of \$25 shall accompany each application for a renewal of license under s. 373.323.

History.—s. 9, part III, ch. 72-299; s. 16, ch. 73-190.

373.333 Enforcement.—

(1) Whenever the department has reasonable grounds for believing that there has been a violation of this part or any rule or regulation adopted pursuant thereto, it shall give written notice to the person alleged to be in violation. Such notice shall identify the provision of this part or regulation issued hereunder alleged to be violated and the facts alleged to constitute such violation.

(2) Such notice shall be served in the manner required by law for the service of process upon persons in a civil action and shall be accompanied by an order of the department requiring described remedial action which, if taken within the time specified in such order, will effect compliance with the requirements of this part and regulations issued hereunder. Such order shall become final unless a request for hearing as provided in chapter 120 is made within 30 days from the date of service of such order.

History.—s. 10, part III, ch. 72-299.

373.336 Penalties.—Any person who violates any provision of this part or regulation or order issued hereunder shall, upon conviction, be guilty of a misdemeanor of the second degree, punishable as provided in ss. 775.082 and 775.083. Continuing violation after notice thereof shall constitute a separate violation for each day so continued.

History.—s. 11, part III, ch. 72-299; s. 17, ch. 73-190.

373.339 Existing regulations preserved.—The enactment of this chapter shall not apply in any area where water wells are regulated by a water regulatory district pursuant to the authority of chapter 373 unless and until the department shall modify or revoke such regulations and provide that such area will thereafter be governed by the provisions of this part.

History.—s. 12, part III, ch. 72-299.

373.342 Permits.—

(1) The governing board of any water regulatory district which, pursuant to the authority of s. 373.339 or pursuant to authority delegated to it by the department under s. 373.308 or s. 373.309(2), regulates water wells may in its discretion authorize its executive director to issue permits for the construction, repair, or modification of any water well.

(2) In granting authority to its executive director under subsection (1), the governing board shall prescribe those certain circumstances in which such a permit may be issued.

History.—s. 3, ch. 79-160.

PART IV

MANAGEMENT AND STORAGE OF SURFACE WATERS

- 373.403 Definitions.
- 373.406 Exemptions.
- 373.409 Headgates, valves and measuring devices.
- 373.413 Permits for construction or alteration.
- 373.416 Permits for maintenance or operation.
- 373.417 Citation of rule.
- 373.419 Completion report.
- 373.423 Inspection.
- 373.426 Abandonment.
- 373.429 Revocation and modification of permits.
- 373.433 Abatement.
- 373.436 Remedial measures.
- 373.439 Emergency measures.
- 373.443 Immunity from liability.

373.403 Definitions.—When appearing in this part or in any rule, regulation, or order adopted pursuant thereto, the following terms shall mean:

(1) "Dam" means any artificial or natural barrier, with appurtenant works, raised to obstruct or impound, or which does obstruct or impound, any of the surface waters of the state.

(2) "Appurtenant works" means any artificial improvements to a dam which might affect the safety of such dam or, when employed, might affect the holding capacity of such dam or of the reservoir or impoundment created by such dam.

(3) "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.

(4) "Reservoir" means any artificial or natural holding area which contains or will contain the water impounded by a dam.

(5) "Works" means all artificial structures, in-

cluding, but not limited to, ditches, canals, conduits, channels, culverts, pipes, and other construction that connects to, draws water from, drains water into, or is placed in or across the waters in the state.

* (6) "Closed system" means any reservoir or works located entirely within lands owned or controlled by the user and which requires water only for the filling, replenishing, and maintaining the water level thereof.

(7) "Alter" means to extend a dam or works beyond maintenance in its original condition, including changes which may increase or diminish the flow or storage of surface water which may affect the safety of such dam or works.

(8) "Maintenance" or "repairs" means remedial work of a nature as may affect the safety of any dam, impoundment, reservoir, or appurtenant work or works, but excludes routine custodial maintenance.

History.—s. 1, part IV, ch. 72-299; s. 18, ch. 73-190; s. 4, ch. 80-259.

373.406 Exemptions.—The following exemptions shall apply:

(1) Nothing herein, or in any rule, regulation, or order adopted pursuant hereto, shall be construed to affect the right of any natural person to capture, discharge, and use water for purposes permitted by law.

(2) Nothing herein, or in any rule, regulation, or order adopted pursuant hereto, shall be construed to affect the right of any person engaged in the occupation of agriculture, silviculture, floriculture, or horticulture to alter the topography of any tract of land for purposes consistent with the practice of such occupation. However, such alteration may not be for the sole or predominant purpose of impounding or obstructing surface waters.

* (3) Nothing herein, or in any rule, regulation, or order adopted pursuant hereto, shall be construed to be applicable to construction, operation, or maintenance of any closed system. However, part II of this chapter shall be applicable as to the taking and discharging of water for filling, replenishing, and maintaining the water level in any such closed system.

(4) All rights and restrictions set forth in this section shall be enforced by the governing board or the Department of Environmental Regulation or its successor agency, and nothing contained herein shall be construed to establish a basis for a cause of action for private litigants.

History.—s. 2, part IV, ch. 72-299; s. 47, ch. 79-65; s. 5, ch. 80-259.

373.409 Headgates, valves and measuring devices.—

(1) The department or the governing board may, by regulation, require the owner of any dam, impoundment, reservoir, appurtenant work, or works subject to the provisions of this part to install and maintain a substantial and serviceable headgate or valve at the point designated by the department or the governing board to measure the water discharged or diverted.

(2) If any owner shall not have constructed or installed such headgate or valve or such measuring device within 60 days after the governing board or department has ordered its construction, the governing board or department shall have such headgate, valve, or measuring device constructed or installed, and the

costs of installing the headgate, valve, or measuring device shall be a lien against the owner's land upon which such installation takes place until the governing board or department is reimbursed in full.

(3) No person shall alter or tamper with a measuring device so as to cause it to register other than the actual amount of water diverted, discharged, or taken. Violation of this subsection shall be a misdemeanor in the second degree, punishable under s. 775.082(5)(b).

History.—s. 3, part IV, ch. 72-299.

373.413 Permits for construction or alteration.—

(1) Except for the exemptions set forth herein, the governing board or the department may require such permits and impose such reasonable conditions as are necessary to assure that the construction or alteration of any dam, impoundment, reservoir, appurtenant work, or works will not be harmful to the water resources of the district. The department or the governing board may delineate areas within the district wherein permits may be required.

(2) A person proposing to construct or alter a dam, impoundment, reservoir, appurtenant work, or works subject to such permit shall apply to the governing board or department for a permit authorizing such construction or alteration. The application shall contain the following:

(a) Name and address of the applicant.

(b) Name and address of the owner or owners of the land upon which the works are to be constructed and a legal description of such land.

(c) Location of the work.

(d) Sketches of construction pending tentative approval.

(e) Name and address of the person who prepared the plans and specifications of construction.

(f) Name and address of the person who will construct the proposed work.

(g) General purpose of the proposed work.

(h) Such other information as the governing board or department may require.

(3) After receipt of an application for a permit, the governing board or department shall cause a notice thereof to be published in a newspaper having general circulation within the affected area. In addition, the governing board or department shall send a copy of such notice to any person who has filed a written request for notification of any pending applications affecting the particular designated area. This notice shall be sent by regular mail prior to the date of publication. The notice shall contain:

(a) The name and address of the applicant or, in the case of a corporation, the address of its principal business office;

(b) The date of filing;

(c) The date set for a hearing, if any;

(d) The source of the water to be contained;

(e) The quantity of water to be contained;

(f) The use to be made of the water and any limitation thereon; and

(g) Such other information as the governing board or the department may deem necessary.

(4) The notice provided for in subsection (3) shall state that written objections to the proposed permit may be filed with the governing board or department by a specified date. The governing board or department, at its discretion, may request further information from either applicant or objectors, and a reasonable time shall be allowed for such responses.

(5) If no substantial objection to the application is received, the governing board or the department, after proper investigation by its staff, may at its discretion approve the application without a hearing. Otherwise, it shall set a time for a hearing in accordance with the provisions of chapter 120.

History.—s. 4, part IV, ch. 72-299; s. 19, ch. 73-190; s. 14, ch. 78-95.

373.416 Permits for maintenance or operation.—

(1) Except for the exemptions set forth in this part, the governing board or department may require such permits and impose such reasonable conditions as are necessary to assure that the operation or maintenance of any dam, impoundment, reservoir, appurtenant work, or works will not be inconsistent with the overall objectives of the district and will not be harmful to the water resources of the district.

(2) Except as otherwise provided in ss. 373.426 and 373.429, a permit issued by the governing board or department for the maintenance or operation of a dam, impoundment, reservoir, appurtenant work, or works shall be permanent, and the sale or conveyance of such dam, impoundment, reservoir, appurtenant work, or works, or the land on which the same is located, shall in no way affect the validity of the permit, provided the owner in whose name the permit was granted notifies the governing board or department of such change of ownership within 30 days of such transfer.

History.—s. 5, part IV, ch. 72-299; s. 20, ch. 73-190.

373.417 Citation of rule.—In addition to any other provisions within this part or any rules promulgated hereunder, the permitting agency shall, when requesting information for a permit application pursuant to this part or such rules promulgated hereunder, cite a specific rule. If a request for information cannot be accompanied by a rule citation, failure to provide such information cannot be grounds to deny a permit.

History.—s. 6, ch. 79-161.

373.419 Completion report.—Within 30 days after the completion of construction or alteration of any dam, impoundment, reservoir, appurtenant work, or works, the permittee shall file a written statement of completion with the governing board or department. The governing board or department shall designate the form of such statement and such information as it shall require.

History.—s. 6, part IV, ch. 72-299.

373.423 Inspection.—

(1) During the construction or alteration of any dam, impoundment, reservoir, appurtenant work, or works, the governing board or department shall make at its expense such periodic inspections as it deems

necessary to insure conformity with the approved plans and specifications included in the permit.

(2) If during construction or alteration the governing board or department finds that the work is not being done in accordance with the approved plans and specifications as indicated in the permit, it shall give the permittee written notice stating with which particulars of the approved plans and specifications the construction is not in compliance and shall order immediate compliance with such plans and specifications. Failure to act in accordance with the orders of the governing board or department after receipt of written notice shall result in the initiation of revocation proceedings in accordance with s. 373.429.

(3) Upon completion of the work, the executive director of the district or the Department of Environmental Regulation or its successor agency shall have periodic inspections made, annually or more frequently as deemed necessary, of permitted dams, reservoirs, impoundments, appurtenant work, or works to protect the public health and safety and the natural resources of the state. No person shall refuse immediate entry or access to any authorized representative of the governing board or the department who requests entry for purposes of such inspection and presents appropriate credentials.

History.—s. 7, part IV, ch. 72-299; s. 21, ch. 73-190; s. 48, ch. 79-65.

373.426 Abandonment.—

(1) Any owner of any dam, impoundment, reservoir, appurtenant work, or works wishing to abandon or remove such work may first be required by the governing board or the department to obtain a permit to do so and may be required to meet such reasonable conditions as are necessary to assure that such abandonment will not be inconsistent with the overall objectives of the district.

(2) Where any permitted dam, impoundment, reservoir, appurtenant work, or works is not owned nor directly controlled by the state or any of its agencies and is not used nor maintained under the authority of the owner for a period of 3 years, it shall be presumed that the owner has abandoned such dam, impoundment, reservoir, appurtenant work, or works, and has dedicated the same to the district for the use of the people of the district.

(3) The title of the district to any such dam, impoundment, reservoir, appurtenant work, or works may be established and determined in the court appointed by statute to determine the title to real estate.

History.—s. 8, part IV, ch. 72-299; s. 22, ch. 73-190.

373.429 Revocation and modification of permits.—The governing board or the department may revoke or modify a permit at any time if it determines that a dam, impoundment, reservoir, appurtenant work, or works has become a danger to the public health or safety or if its operation has become inconsistent with the objectives of the district. The affected party may file a written petition for hearing no later than 14 days after notice of revocation or modification is served. If the executive director of the district or the division determines that the danger to the public is imminent, he may order a temporary suspension of the construction, alteration, or operation

of the works until the hearing is concluded, or may take such action as authorized under s. 373.439.

History.—s. 9, part IV, ch. 72-299; s. 14, ch. 78-95.

373.433 Abatement.—Any dam, impoundment, reservoir, appurtenant work, or works which violates the laws of this state or which violates the standards of the governing board or the department shall be declared a public nuisance. The operation of such dam, impoundment, reservoir, appurtenant work, or works may be enjoined by suit by the state or any of its agencies or by a private citizen. The governing board or the department shall be a necessary party to any such suit. Nothing herein shall be construed to conflict with the provisions of s. 373.429.

History.—s. 10, part IV, ch. 72-299.

373.436 Remedial measures.—

(1) Upon completion of any inspection provided for by s. 373.423(3), the executive director shall determine what alterations or repairs are necessary and order that such alterations and repairs shall be made within a time certain, which shall be a reasonable time. The owner of such dam, impoundment, reservoir, appurtenant work, or works may file a written petition for hearing before the governing board or the department no later than 14 days after such order is served. If, after such order becomes final, the owner shall fail to make the specified alterations or repairs, the governing board or the department may, in its discretion, cause such alterations or repairs to be made.

(2) Any cost to the district or the department of alterations or repairs made by it under the provisions of subsection (1) shall be a lien against the property of the landowner on whose lands the alterations or repairs are made until the governing board or department is reimbursed, with reasonable interest and attorney's fees, for its costs.

History.—s. 11, part IV, ch. 72-299; s. 14, ch. 78-95.

373.439 Emergency measures.—

(1) The executive director, with the concurrence of the governing board, or the Department of Environmental Regulation shall immediately employ any remedial means to protect life and property if either:

(a) The condition of any dam, impoundment, reservoir, appurtenant work, or works is so dangerous to the safety of life or property as not to permit time for the issuance and enforcement of an order relative to maintenance or operation.

(b) Passing or imminent floods threaten the safety of any dam, impoundment, reservoir, appurtenant work, or works.

(2) In applying the emergency measures provided for in this section, the executive director or the Department of Environmental Regulation may in an emergency do any of the following:

(a) Lower the water level by releasing water from any impoundment or reservoir.

(b) Completely empty the impoundment or reservoir.

(c) Take such other steps as may be essential to safeguard life and property.

(3) The executive director or the Department of Environmental Regulation shall continue in full charge and control of such dam, impoundment, reservoir, and its appurtenant works until they are rendered safe or the emergency occasioning the action has ceased.

History.—s. 12, part IV, ch. 72-299; s. 49, ch. 79-65.

373.443 Immunity from liability.—No action shall be brought against the state or district, or any agents or employees of the state or district, for the recovery of damages caused by the partial or total failure of any dam, impoundment, reservoir, appurtenant work, or works upon the ground that the state or district is liable by virtue of any of the following:

(1) Approval of the permit for construction or alteration.

(2) The issuance or enforcement of any order relative to maintenance or operation.

(3) Control or regulation of dams, impoundments, reservoirs, appurtenant work, or works regulated under this chapter.

(4) Measures taken to protect against failure during emergency.

History.—s. 13, part IV, ch. 72-299.

PART V

FINANCE AND TAXATION

- 373.495 Water resources development account.
- 373.498 Disbursements from water resources development account.
- 373.501 Appropriation of funds to water management districts.
- 373.503 Manner of taxation.
- 373.506 Costs of district.
- 373.507 Districts, basins, and taxing authorities; budget and expense reports; audits.
- 373.516 Benefits to rights-of-way.
- 373.536 District budget and hearing thereon.
- 373.539 Imposition of taxes.
- 373.543 Land held by Board of Trustees of the Internal Improvement Trust Fund; areas not taxed.
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- 373.563 Bonds.
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- 373.573 Bonds to be validated.
- 373.576 Sale of bonds.
- 373.579 Proceeds from taxes for bond purposes.
- 373.583 Registration of bonds.
- 373.586 Unpaid warrants to draw interest.
- 373.589 Audit by Auditor General.
- 373.59 Water Management Lands Trust Fund.

373.495 Water resources development account.—There is hereby created in the General Revenue Fund an account to be known as the "Water Resources Development Account." Subject to such appropriation as the Legislature may make from time

to time, the purpose of said account shall be to provide assistance to the water management districts created under this act for the protection, conservation, or development of the water resources of the state.

History.—s. 10, part 1, ch. 72-299; ss. 4, 25, ch. 73-190.
Note.—Former s. 373.059.

373.498 Disbursements from water resources development account.—Subject to the provisions of this chapter, there shall be available to any flood control or water management district created under this chapter or by special acts of Legislature, out of said Water Resources Development Account upon the approval of the Department of Environmental Regulation, a sum or sums of money not exceeding in the aggregate the total estimated amount required to cover the costs allocated to the district for constructing the works of said district, for the acquisition of lands for water storage areas, for highway bridge construction, and for administration and promotion. These works may include small watershed projects (Pub. L. No. 83-566). Said sum or sums shall be available as money is required for said purposes and may be a grant to said districts. Also, subject to the provisions of this chapter, there shall be available to any navigation district or agency created under chapter 374 or by special act of the Legislature, out of said Water Resources Development Account upon approval of the department, a sum or sums of money not exceeding in the aggregate the total estimated amount required to cover the costs allocated to the district for constructing the works, for highway bridge construction, for the acquisition of land for rights-of-way, for water storage areas, and for administration and promotion. Said sum or sums shall be available as money is required for said purposes and may be a grant to said districts or agencies.

History.—s. 4, ch. 25209, 1949; s. 2, ch. 65-287; s. 1, ch. 67-199; ss. 25, 35, ch. 69-106; s. 2, ch. 70-143; s. 25, ch. 73-190; s. 50, ch. 79-65.
Note.—Former s. 378.04.

373.501 Appropriation of funds to water management districts.—The department may allocate to the water management districts, from funds appropriated to the department, such sums as may be deemed necessary to defray the costs of the administrative, regulatory, and other activities of the districts. The governing boards shall submit annual budget requests for such purposes to the department, and the department shall consider such budgets in preparing its budget request for the Legislature.

History.—s. 11, part 1, ch. 72-299; ss. 5, 25, ch. 73-190.
Note.—Former s. 373.066.

373.503 Manner of taxation.—

(1) It is the finding of the Legislature that the general regulatory and administrative functions of the districts herein authorized are of general benefit to the people of the state and should fully or in part be financed by general appropriations. Further, it is the finding of the Legislature that water resources programs of particular benefit to limited segments of the population should be financed by those most directly benefited. To those ends, this chapter provides for the establishment of permit application fees and

a method of ad valorem taxation to finance the activities of the district.

(2)(a) The Legislature declares that the millage authorized for water management purposes by s. 9(b), Art. VII of the State Constitution shall be levied only by the water management districts set forth in this chapter and intends by this section to prevent any laws which would allow other units of government to levy any portion of said millage. However, this does not preclude such units of government from financing and engaging in water management programs if otherwise authorized by law.

(b) Pursuant to s. 11(a)(21), Art. III of the State Constitution, the Legislature hereby prohibits special laws or general laws of local application pertaining to the allocation of any portion of the millage authorized for water management purposes by s. 9(b), Art. VII of the State Constitution to any unit of government other than those districts established by this chapter.

(c) The authority of the Central and Southern Florida Flood Control District and the Southwest Florida Water Management District to levy ad valorem taxes within the territories specified in chapter 25270, Laws of Florida, 1949, and chapter 61-691, Laws of Florida, respectively, as heretofore amended, shall continue until those districts have authority to levy ad valorem taxes pursuant to this section.

(3) The districts may levy ad valorem taxes on property within the district solely for the purposes of this chapter and of chapter 25270, Laws of Florida, 1949, as amended, and chapter 61-691, Laws of Florida, as amended. The authority to levy ad valorem taxes as provided in this act shall commence with the year 1977. However, the taxes levied for 1977 by the governing boards pursuant to this section shall be prorated to ensure that no such taxes will be levied for the first 4 days of the tax year, which days will fall prior to the effective date of the amendment to s. 9(b), Art. VII of the Constitution of the State of Florida, which was approved March 9, 1976. When appropriate, taxes levied by each governing board may be separated by the governing board into a millage necessary for the purposes of the district and a millage necessary for financing basin functions specified in s. 373.0695. Beginning with the taxing year 1977, and notwithstanding the provisions of any other general or special law to the contrary, the maximum total millage rate for district and basin purposes shall be:

(a) Northwest Florida Water Management District: 0.05 mill.

(b) Suwannee River Water Management District: 0.75 mill.

(c) St. Johns River Water Management District: 0.375 mill.

(d) Southwest Florida Water Management District: 1.0 mill.

(e) South Florida Water Management District: 0.80 mill.

The maximum millage assessed for district purposes shall not exceed 25 percent of the total authorized millage when there are one or more basins in a district, and the maximum millage assessed for basin

purposes shall not exceed 75 percent of the total authorized millage.

(4) It is hereby determined that the taxes authorized by this chapter are in proportion to the benefits to be derived by the several parcels of real estate within the districts to which territories are annexed and transferred. It is further determined that the cost of conducting elections within the respective districts or within the transferred or annexed territories, including costs incidental thereto in preparing for such election and in informing the electors of the issues therein, is a proper expenditure of the department, of the respective districts, and of the district to which such territory is or has been annexed or transferred.

(5) Each water management district created under this chapter which does not receive state shared revenues under part II of chapter 218 shall, before January 1 of each year, certify compliance or non-compliance with s. 200.065 to the Department of Banking and Finance. Specific grounds for non-compliance shall be stated in the certification. In its annual report required by s. 218.32(2), the Department of Banking and Finance shall report to the Governor and the Legislature those water management districts certifying non-compliance or not reporting.

History.—s. 1, part V, ch. 72-299; s. 24, ch. 73-190; s. 12, ch. 76-243; s. 6, ch. 80-259; s. 41, ch. 80-274.

Note.—Chapter 76-243, which enacted paragraph (2)(b), was passed by the requisite three-fifths vote in each house. See s. 11(a)(21), Art. III, State Constitution.

373.506 Costs of district.—If it should appear necessary to procure funds with which to pay the expenses of a district, or to meet emergencies, before a sufficient sum can be obtained from the collection of the tax, the board may borrow a sufficient amount of money to pay expenses and to meet emergencies and may issue interest-bearing negotiable notes therefor and pledge the proceeds of the tax imposed under the provisions of this chapter for the repayment thereof. Said board may issue to any person performing work or services or furnishing anything of value interest-bearing negotiable evidence of debt.

History.—s. 19, ch. 25209, 1949; s. 25, ch. 73-190; s. 15, ch. 76-243.

Note.—Former s. 378.19.

373.507 Districts, basins, and taxing authorities; budget and expense reports; audits.—Each district and basin referred to in chapter 76-243, Laws of Florida, shall furnish a detailed copy of its budget and past year's expenditures to the Governor, the Legislature, and the governing body of each county in which the district or basin has jurisdiction or derives any funds for the operations of the district or basin. Each district, basin, and taxing authority shall make provision for an annual postaudit of its financial accounts and activities. Additionally, each district, basin, and taxing authority shall make provision for an independent performance audit of its financial accounts and activities in order that a complete performance audit shall be conducted for each 3-year period. The year in which these performance audits are conducted shall be determined by the Department of Environmental Regulation. These postaudits and performance audits shall be made in accordance with

the rules of the Auditor General promulgated pursuant to ss. 166.241 and 11.47.

History.—s. 16, ch. 76-243; s. 1, ch. 77-367.

373.516 Benefits to rights-of-way.—The governing board of the district shall assess benefits to rights-of-way of railroads and other public service corporations in like manner as for other property, and the imposition and collection of said tax shall be in like manner as is provided with respect to other property, except that the basis of value of railroad rights-of-way for assessment purposes is hereby fixed at \$4,000 per mile without reference to number of tracks, or other facilities thereon, and the governing board of the district shall furnish the property appraiser of the county in which such rights-of-way is located a description thereof, the number of miles in length and the tax rate on value-benefit basis to be applied in assessing district taxes against said rights-of-way.

History.—s. 22, ch. 25209, 1949; s. 25, ch. 73-190; s. 1, ch. 77-102.

Note.—Former s. 378.22.

373.536 District budget and hearing thereon.—

(1) The fiscal year of districts created under the provisions of this chapter shall extend from October 1 of one year through September 30 of the following year. The budget officer of the district shall, on or before July 15 of each year, submit for consideration by the governing board of the district a tentative budget for the district covering its proposed operation and requirements for the ensuing fiscal year. The tentative budget shall be adopted in accordance with the provisions of s. 200.065; however, if the mailing of the notice of proposed property taxes is delayed beyond August 29 in any county in which the district lies, the district shall advertise its intention to adopt a tentative budget and millage rate, pursuant to s. 200.065(3)(f), in a newspaper of general paid circulation in said county. The budget shall set forth, classified by object and purpose, and by fund if so designated, the proposed expenditures of the district for bonds or other debt, for construction, for acquisition of land, for operation and maintenance of the district's works, for the conduct of the affairs of the district generally, and for other purposes, to which may be added an amount to be held as a reserve.

(2) The budget shall also show the estimated amount which will appear at the beginning of the fiscal year as obligated upon commitments made but uncompleted. There shall be shown the estimated unobligated or net balance which will be on hand at the beginning of the fiscal year, and the estimated amount to be raised by district taxes and from other sources for meeting the district's requirements.

(3) As provided in s. 200.065(2)(d), the board shall publish one or more notices of its intention to finally adopt a budget for the district for the ensuing fiscal year. The notice shall appear adjacent to an advertisement which shall set forth the tentative budget in full. The notice and advertisement shall be published in one or more newspapers having a combined general circulation in the counties having land in the district.

(4) The hearing to finally adopt a budget and millage rate shall be by and before the governing board of the district as provided in s. 200.065 and may be continued from day to day until terminated by the board. The final budget for the district shall thereupon be the operating and fiscal guide for the district for the ensuing year; however, transfers of funds may be made within the budget by action of the governing board at a public meeting of the governing board. Should the district receive unanticipated funds after the adoption of the final budget, the final budget may be amended by including the said funds, so long as notice of intention to amend shall be published one time in one or more newspapers qualified to accept legal advertisements having a combined general circulation in the counties in the district. The notice shall set forth the proposed amendment and shall be published at least 10 days prior to the public meeting of the board at which the proposed amendment is to be considered. Provided, in the event of disaster or of emergency arising to prevent or avert the same, the governing board shall not be limited by the budget but shall have authority to apply such funds as may be available therefor or as may be procured for such purpose.

History.—s. 28, ch. 25209, 1949; s. 3, ch. 29790, 1955; s. 4, ch. 61-497; s. 1, ch. 65-432; s. 1, ch. 67-74; s. 25, ch. 73-190; s. 18, ch. 74-234; s. 46, ch. 80-274; s. 230, ch. 81-259.

Note.—Former s. 378.28.

373.539 Imposition of taxes.—

(1) Each year the governing board of the district shall certify to the property appraiser of the county in which the property is situate, timely for the preparation of the tax roll, the tax rate to be applied in determining the amount of the district's annual tax, and the property appraiser shall extend on his county tax roll the amount of such tax, determined at the rate certified to him by the governing board, and shall certify the same to the tax collector at the same time and in like manner as for county taxes.

(2) Collection of district taxes, the issuance of tax sale certificates for nonpayment thereof, the redemption or sale of said certificates, the vesting of title by tax forfeiture, and the sale of the land and other real estate so forfeited shall be at the same time, in conjunction with, and by like procedure and of like effect as is provided by law with respect to county taxes, nor may either the county or the district taxes be paid or redemption effected without the payment or redemption of both. The title to district tax forfeited land shall vest in the county on behalf of said district along with that of the county for county tax forfeited land, said district tax forfeited land to be held, sold, or otherwise disposed of by said county for the benefit of said district. The proceeds therefrom, after deducting costs, shall be paid to the district in amounts proportionate to the respective tax liens thereon.

(3) The district tax liens shall be of equal dignity with those of the county.

(4) The tax officers of the county are hereby authorized and directed to perform the duties devolving upon them under this chapter, and to receive compensation therefor at such rates or charges as are provided by law with respect to similar services or charges in other cases.

History.—s. 29, ch. 25209, 1949; s. 25, ch. 73-190; s. 1, ch. 77-102.

Note.—Former s. 378.29.

373.543 Land held by Board of Trustees of the Internal Improvement Trust Fund; areas not taxed.—

(1) Land comprising part of the principal of the State School Trust Fund declared by the constitution to be "sacred and inviolate," or other real estate, title to which is in the State Board of Education, shall not be subject to the district tax nor shall there be liability therefor upon any state agency.

(2) There shall be excluded from district taxes all bodies of navigable water and unreclaimed water areas meandered by the public surveys, all rights-of-way of said district, all areas devoted or dedicated to the use of and for the works of the district, rights-of-way of state and county highways, and streets within the limits of incorporated towns, and property owned by a public agency open to the use of the public or for the public benefit not leased to or operated by a private agency.

History.—s. 30, ch. 25209, 1949; s. 2, ch. 61-119; ss. 27, 35, ch. 69-106; s. 26, ch. 73-190; s. 1, ch. 77-102; s. 231, ch. 81-259.

Note.—Former s. 378.30.

373.546 Unit areas.—The governing board may, in its discretion, adopt and effectuate unit areas embracing separate or combined drainage basins, or parts thereof, or areas of related lands and works, for convenience or economy in constructing, maintaining and operating the works of the district, and for the purpose of imposing taxes within each area to meet these requirements of the said area.

History.—s. 31, ch. 25209, 1949; s. 25, ch. 73-190.

Note.—Former s. 378.31.

373.553 Treasurer of the board; depositories.—

(1) The governing board shall designate a treasurer who shall be custodian of all funds belonging to the said board and to the said district, and such funds shall be disbursed upon the order of, or in the manner prescribed by, the governing board by warrant or check signed by the treasurer or assistant treasurer and countersigned by the chairman or vice chairman of the board. The board is authorized to establish procedures for disbursement of funds in such amounts and in such manner as the board may prescribe, except that disbursement of funds prior to specific board approval may only be authorized upon certification by its chief executive officer or his designated assistant to the treasurer or assistant treasurer and to the chairman or vice chairman of the board that such disbursement is proper and in order and is within budgetary limits. Any such disbursements shall be reported to the board at its next regular meeting.

(2) The board is hereby authorized to select as depositories in which the funds of the said board and of the said district shall be deposited any banking corporation organized under the laws of the state or under the National Banking Act, doing business in the state, upon such terms and conditions as to the payment of interest by such depository upon the funds so deposited as the said board shall deem just and reasonable and also upon such terms as to security by such depository as said board shall deem proper, which security may be either by satisfactory indi-

vidual or surety bonds or by the deposit with the treasurer of bonds of the district issued by said board, bonds of the United States, bonds or certificates of the several states, county and municipal bonds or certificates, and county or county school time warrants, issued by any of the counties or cities of the state or by any of the state agencies, departments or commissions authorized to issue bonds or certificates, or issued by authority created by the Legislature. Such bonds or certificates may be general obligations of the issuing authority or they may be secured by utility revenues, or other revenues, or by excise taxes, or they may be secured by a limited ad valorem tax; provided, however, that none of the foregoing bonds or certificates shall be accepted as security for the funds herein mentioned unless they shall have qualities pertinent to bank investments; and provided further, that except as to the bonds of the United States or bonds the payment of whose principal and interest is guaranteed by the United States or federal certificates of indebtedness, or state, county or municipal obligation bonds, the bonds or certificates herein mentioned shall be rated in one of the highest four classifications by established nationally recognized investment rating services, the type, amount or value of such bonds or certificates shall be in such amount as may be designated by the governing board of the district.

History.—s. 33, ch. 25209, 1949; s. 3, ch. 63-224; s. 25, ch. 73-190; s. 1, ch. 73-213; s. 115, ch. 77-104.

Note.—Former s. 378.33.

373.556 Investment of funds.—The governing board of the district may, in its discretion, invest funds of the district in the following manner:

(1) That portion of the funds of the district which the board anticipates will be needed for emergencies may be invested in bonds or other obligations, either bearing interest or sold on a discount basis, of the United States, or the United States Treasury, or those for the payment of the principal and interest of which the faith and credit of the United States is pledged.

(2) All other funds of the district may be invested in securities named in subsection (1) hereof, or in bonds or other interest-bearing obligations of any incorporated county, city, town, school district or road and bridge district located in the state, for which the full faith and credit of such political subdivision has been pledged; provided, such political subdivision or its successor, through merger, consolidation or otherwise, has not within 5 years previous to the making of such investment, defaulted for more than 6 months in the payment of any part of the principal or interest of its bonded indebtedness; and, provided, the securities purchased under the provisions of this subsection shall have a maturity date on or before the anticipated date of need for the funds represented thereby.

History.—s. 4, ch. 29790, 1955; s. 25, ch. 73-190.

Note.—Former s. 378.331.

373.559 May borrow money temporarily.—In order to provide for the works described by this chapter, the governing board is hereby authorized and empowered to borrow money temporarily, from time to time, for a period not to exceed 1 year at any

one time, not including renewals thereof, and to issue its promissory notes therefor upon such terms and at such rates of interest as the said board may deem advisable, payable from the taxes herein levied and imposed, and the increment thereof. Any of such notes may be used in payment of amounts due, or to become due, upon contracts made or to be made by said board for carrying on the work authorized and provided for herein, and the said board may, to secure the payment of any of such notes, hypothecate bonds herein authorized to be issued, and may thereafter redeem such hypothecated bonds. Any of the notes so issued may be paid out of the proceeds of bonds authorized to be issued by this chapter.

History.—s. 34, ch. 25209, 1949; s. 25, ch. 73-190.

Note.—Former s. 378.34.

373.563 Bonds.—

(1) The governing board is hereby authorized and empowered to borrow money on permanent loans and incur obligations from time to time on such terms and at such rates of interest as it may deem proper, not exceeding 7.5 percent per annum, for the purpose of raising funds to prosecute to final completion the works and all expenses necessary or needful to be incurred in carrying out the purposes of this chapter; and the better to enable the said board to borrow the money to carry out the purposes aforesaid, the board is hereby authorized and empowered to issue in the corporate name of said board, negotiable coupon bonds of said district.

(2) The bonds to be issued by authority of this chapter shall be in such form as shall be prescribed by the said board, shall recite that they are issued under the authority of this chapter, and shall pledge the faith and credit of the governing board of the district for the prompt payment of the interest and principal thereof.

(3) Said bonds shall have all the qualities of negotiable paper under the Law Merchant, and shall not be invalid for any irregularity, or defect in the proceedings for the issue and sale thereof except forgery; and shall be incontestable in the hands of bona fide purchasers or holders thereof for value. The provisions of this chapter shall constitute an irrevocable contract between said board and the district and the holders of any bonds and the coupons thereof, issued pursuant to the provisions hereof. Any holder of any of said bonds or coupons may either at law or in equity by suit, action or mandamus enforce and compel the performance of the duties required by this chapter of any of the officers or persons mentioned in this chapter in relation to the said bonds, or to the collection, enforcement and application of the taxes for the payment thereof.

(4) The amount of bonds to be issued in any one year, when added to the amount then outstanding, shall be not greater than can be supported for that year in accordance with the bond schedule out of 90 percent of the taxes imposed, or to be imposed, for that year, plus other moneys in the hands of the district usable for bond purposes after deducting therefrom amounts estimated to be required for maintenance and operation of the works of the district, cost of administration, and amounts for such other pur-

poses as the governing board may determine, nor shall the governing board levy in any year taxes insufficient to support said bonds for such year on the basis herein described.

(5) All bonds and coupons not paid at maturity shall bear interest at a rate not to exceed 7.5 percent per annum from maturity until paid, or until sufficient funds have been deposited at the place of payment.

(6) The bonds to be issued by authority of this chapter shall be in denominations of not less than \$100, bearing interest from date at a rate not to exceed 5 percent per annum, payable semiannually, to mature at annual intervals within 40 years commencing after a period of not later than 10 years, to be determined by said board, both principal and interest payable at some convenient place designated by said board to be named in said bonds, which said bonds shall be signed by the chairman of the board, attested with the seal of said district and by the signature of the secretary of said board. In case any of the officers whose signatures, countersignatures and certificates appear upon the said bonds and coupons shall cease to be such officer before the delivery of such bonds to the purchaser, such signature or countersignature and certificate shall nevertheless be valid and sufficient for all purposes the same as if they had remained in office until the delivery of the bonds.

(7) Interest coupons shall be attached to the said bonds and the said coupons shall be consecutively numbered, specifying the number of the bond to which they are attached, and shall be attested by the lithographed or engraved facsimile signature of the chairman and secretary of said board.

(8) In the discretion of said board, it may be provided that at any time, after such date as shall be fixed by the said board, said bonds may be redeemed before maturity at the option of said board, or its successors in office. If any bond so issued subject to redemption before maturity shall not be presented when called for redemption, it shall cease to bear interest from and after the date so fixed for redemption.

History.—s. 35, ch. 25209, 1949; s. 1, ch. 61-147; s. 25, ch. 73-190; s. 33, ch. 73-302; s. 1, ch. 77-174; s. 147, ch. 79-400.
Note.—Former s. 378.35.

373.566 Refunding bonds.—The governing board shall have authority to issue refunding bonds to take up any outstanding bonds of said district falling due and becoming payable, when, in the judgment of said board, it shall be for the best interests of said district so to do. The said board is hereby authorized and empowered to issue refunding bonds to take up and refund all bonds of said district outstanding that are subject to call and termination, and all bonds of said district that are not subject to call or redemption, where the surrender of said bonds can be procured from the holder thereof at prices satisfactory to the board. Such refunding bonds may be issued at any time when in the judgment of said board it will be to the interest of the district financially or economically by securing a lower rate of interest on said bonds or by extending the time of maturity of said bonds, or for any other reason in the judgment of said board advantageous to said district.

History.—s. 36, ch. 25209, 1949; s. 25, ch. 73-190.
Note.—Former s. 378.36.

373.569 Bond election.—When required by the State Constitution, the governing board shall call an election of the freeholders in said district, in which said election the matter of whether or not said bonds shall be issued shall be decided as provided by law with respect to bond elections.

History.—s. 37, ch. 25209, 1949; s. 25, ch. 73-190.
Note.—Former s. 378.37.

373.573 Bonds to be validated.—Whenever the governing board shall have authorized the issuance of bonds under the provisions of this chapter, the said board may, if it shall so elect, have said bonds validated in the manner provided by chapter 75, and to that end the said board may adopt a suitable resolution for the issuance of said bonds.

History.—s. 38, ch. 25209, 1949; s. 25, ch. 73-190.
Note.—Former s. 378.38.

373.576 Sale of bonds.—All of said bonds shall be executed and delivered to the treasurer of said district, who shall sell the same in such quantities and at such rates as the board may deem necessary to meet the payments for the works and improvements in the district. Said bonds shall not be sold for less than 95 cents on the dollar, with accrued interest.

History.—s. 39, ch. 25209, 1949; s. 25, ch. 73-190.
Note.—Former s. 378.39.

373.579 Proceeds from taxes for bond purposes.—It shall be the duty of the treasurer as custodian of the funds belonging to the said board and to the district, out of the proceeds of the taxes levied and imposed by this chapter and out of any other moneys in his possession belonging to the district, which moneys so far as necessary shall be set apart and appropriated for the purpose, to apply said moneys and to pay the interest upon the said bonds as the same shall fall due and at the maturity of the said bonds to pay the principal thereof.

History.—s. 40, ch. 25209, 1949; s. 25, ch. 73-190.
Note.—Former s. 378.40.

373.583 Registration of bonds.—

(1) Whenever the owner of any coupon bond issued pursuant to the provisions of this chapter shall present such bond and all unpaid coupons thereof to the treasurer of the district with request for the conversion of such bond into a registered bond, such treasurer shall cut off and cancel the coupons of any such coupon bond so presented, and shall stamp, print or write upon such coupon bond so presented either upon the back or the face thereof as may be convenient, a statement to the effect that said bond is registered in the name of the owner and that thereafter the interest and principal of said bond are payable to the registered owner. Thereafter and from time to time any such bond may be transferred by such registered owner in person or by attorney duly authorized on presentation of such bond to the treasurer, and the bond again registered as before, a similar statement being stamped or written thereon.

(2) Such statement stamped, printed or written upon any such bond may be in substantially the following form:

(Date, giving month, year and day.)

This bond is to be registered pursuant to the statutes in such case made and provided in the name of (here insert name of owner), and the interest and principal thereof are hereafter payable to such owner.

(Treasurer)

(3) If any bond shall have been registered as aforesaid, the principal and interest of said bond shall be payable to the registered owner. The treasurer shall enter in the register of said bonds to be kept by him, or in a separate book, the fact of the registration of such bonds, and in whose names respectively, so that said register or book shall at all times show what bonds are registered and the name of the registered owner thereof.

History.—s. 41, ch. 25209, 1949; s. 25, ch. 73-190.
Note.—Former s. 378.41.

373.586 Unpaid warrants to draw interest.—If any warrant issued under this chapter is not paid when presented to the treasurer of the district because of lack of funds in the treasury, such fact shall be endorsed on the back of such warrant, and such warrant shall draw interest thereafter at a rate not exceeding 6 percent per annum, until such time as there is money on hand to pay the amount of such warrant and the interest then accumulated; but no interest shall be allowed on warrants after notice to the holder or holders thereof that sufficient funds are in the treasury to pay said endorsed warrants and interest.

History.—s. 42, ch. 25209, 1949; s. 25, ch. 73-190; s. 116, ch. 77-104.
Note.—Former s. 378.42.

373.589 Audit by Auditor General.—At the direction of the Governor, audit of the district's accounts may be made from time to time by the Auditor General, and such audit shall be within the authority of said Auditor General, to make. Copy of such audit shall be furnished the Governor and the governing board of the district, and a copy shall be filed with the clerks of the circuit courts of each county within or partly within said district. The expense of said audit shall be paid by the district upon a statement thereof rendered to the district by the Auditor General. Payment of the amount thereof shall be made to the State Department of Banking and Finance to be entered in and to reimburse the account of the Auditor General so as not to reduce the legislative appropriation for said Auditor General.

History.—s. 43, ch. 25209, 1949; s. 8, ch. 69-82; ss. 12, 35, ch. 69-106; s. 25, ch. 73-190.
Note.—Former s. 378.43.

373.59 Water Management Lands Trust Fund.—

(1) There is established within the Department of Environmental Regulation the Water Management Lands Trust Fund, to be used as a nonlapsing fund for the purposes of this section. The moneys in this fund are hereby continually appropriated for the purpose of acquiring land in accordance with the provisions of this section.

(2) Each district shall file a 5-year plan for acquisition

with the Legislature and the Secretary of Environmental Regulation by January 15, 1982. Annually thereafter each district shall file with the Legislature and the secretary a report of acquisition activity together with modifications or additions to its 5-year plan of acquisition. Expenditure of moneys from the Water Management Lands Trust Fund shall be limited to the costs for acquisition of lands included within the plan as filed by each district.

(a) Prior to July 15, 1982, the use of moneys from the fund shall be limited to the following land acquisitions:

1. By South Florida Water Management District—lands in the water conservation areas and areas adversely affected by raising water levels of Lake Okeechobee in accordance with present regulation schedules, and the Savannahs Wetland area in Martin County and St. Lucie County.

2. By Southwest Florida Water Management District—lands in the Four River Basins areas, including Green Swamp, Upper Hillsborough and Cypress Creek, Anclote Water Storage Lands (Starkey), Withlacoochee and Hillsborough riverine corridors, and Sawgrass Lake addition.

3. By St. Johns River Water Management District—Seminole Ranch, Latt Maxey and Evans properties in the upper St. Johns River Basin.

4. By Suwannee River Water Management District—lands in Suwannee River Valley.

5. By Northwest Florida Water Management District—lands in the Choctawhatchee and Apalachicola River Valleys.

(b) After July 15, 1982, the use of moneys from the fund shall be used for continued acquisition of lands listed in paragraph (a) and as set forth in the 5-year land acquisition plan of the district.

(3) Moneys from the Water Management Lands Trust Fund shall be used for acquiring the fee or other interest in lands necessary for water management, water supply, and the conservation and protection of water resources, except that such moneys shall not be used for the acquisition of rights-of-way for canals or pipelines. Lands acquired with moneys from the fund shall be managed and maintained in an environmentally acceptable manner, and to the extent practicable, in such a way as to restore and protect their natural state and condition. The secretary of the Department of Environmental Regulation shall release moneys from the Water Management Lands Trust Fund to the districts following receipt of a resolution adopted by the governing board identifying the lands being acquired and certifying that such acquisition is consistent with the plan of acquisition and other provisions of this act.

(4) Water management land acquisition costs shall include payments to owners and costs and fees associated with such acquisition.

(5) The state-to-district ratio for funding of water management land acquisition shall be 4 to 1, except that the first \$2 million of the moneys allocated to the district annually shall be exempt from the matching requirement. Any unused portion of a district's share of the fund shall accumulate in the trust fund to the credit of that district. Interest earned on such portion shall also accumulate to the credit of

that district to be used for land acquisition as provided in this section. The total moneys over the life of the fund available to any district under this section shall not be reduced except by resolution of the district governing board stating that the need for the moneys no longer exists.

(6) Moneys from the Water Management Lands Trust Fund shall be available to the five water management districts in the following percentages:

(a) Thirty percent to the South Florida Water Management District.

(b) Twenty-five percent to the Southwest Florida Water Management District.

(c) Twenty-five percent to the St. Johns River Water Management District.

(d) Ten percent to the Suwannee River Water Management District.

(e) Ten percent to the Northwest Florida Water Management District.

(7) Moneys in the fund not needed to meet current obligations incurred under this section shall be transferred to the State Board of Administration, to the credit of the fund, to be invested in the manner provided by law. Interest received on such investments shall be credited to the fund.

(8) Lands acquired for the purposes enumerated in this section shall also be used for general public recreational purposes that are not inconsistent with subsection (3).

(9) A district may dispose of land acquired under this section, pursuant to s. 373.089. However, revenue derived from such disposal may not be used for any purpose except the purchase of other lands meeting the criteria specified in this section.

(10) This section is repealed effective July 1, 1992. Any unobligated moneys remaining in the Water Management Lands Trust Fund on the date of the repeal of this section shall be deposited into the General Revenue Fund.

History.—ss. 3, 5, ch. 81-33.

Note.—The words "of Environmental Regulation" were inserted to clarify the reference to secretary.

PART VI

MISCELLANEOUS PROVISIONS

- 73.603 Power to enforce.
- 73.604 Awards to employees for meritorious service.
- 73.605 Group insurance for water management districts.
- 3.609 Enforcement; city and county officers to assist.
- 3.613 Penalties.
- 3.614 Unlawful damage to district property or works; penalty.
- 3.616 Liberal construction.
- 3.6161 Chapter to be liberally construed.
- 3.617 Judicial review relating to permits and licenses.

73.603 Power to enforce.—The Department of Environmental Regulation or the governing board of any water management district and any officer or agent thereof may enforce any provision of this law or

any rule or regulation adopted and promulgated or order issued thereunder to the same extent as any peace officer is authorized to enforce the law. Any officer or agent of any such board may appear before any magistrate empowered to issue warrants in criminal cases and make an affidavit and apply for the issuance of a warrant in the manner provided by law; and said magistrate, if such affidavit shall allege the commission of an offense, shall issue a warrant directed to any sheriff or deputy for the arrest of any offender. The provisions of this section shall apply to the Florida Water Resources Act of 1972 in its entirety.

History.—s. 14, ch. 57-380; s. 14, ch. 63-336; ss. 25, 35, ch. 69-106; s. 2, part VI, ch. 72-299; s. 25, ch. 73-190; s. 117, ch. 77-104; s. 51, ch. 79-65.
Note.—Former s. 373.201.

373.604 Awards to employees for meritorious service.—The governing board of any water management district may adopt and implement a program of meritorious service awards for district employees who make proposals which are implemented and result in reducing district expenditures or improving district operations, who make exceptional contributions to the efficiency of the district, or who make other improvements in the operations of the district. No award granted under the provisions of this section shall exceed \$2,000 or 10 percent of the first year's savings, whichever is less, unless a larger award is made by the Legislature. Awards shall be paid by the district from any available funds.

History.—s. 1, ch. 74-287.

373.605 Group insurance for water management districts.—

(1) The governing board of any water management district is hereby authorized and empowered to provide group insurance for its employees in the same manner and with the same provisions and limitations authorized for other public employees by ss. 112.08, 112.09, 112.10, 112.11, 112.12 and 112.14.

(2) Any and all insurance agreements in effect as of October 1, 1974, which conform to the provisions of this section are hereby ratified.

History.—ss. 1, 2, ch. 74-218.

373.609 Enforcement; city and county officers to assist.—It shall be the duty of every state and county attorney, sheriff, police officer, and other appropriate city and county official, upon request, to assist the department, the governing board of any water management district, or any local board, or any of their agents in the enforcement of the provisions of this law and the rules and regulations adopted thereunder.

History.—s. 15, ch. 57-380; s. 15, ch. 63-336; ss. 25, 35, ch. 69-106; s. 25, ch. 73-190; s. 117, ch. 77-104; s. 232, ch. 81-259.
Note.—Former s. 373.211.

373.613 Penalties.—Any person who violates any provision of this law or any rule, regulation or order adopted or issued pursuant thereto is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

History.—s. 18, ch. 57-380; s. 325, ch. 71-136; s. 25, ch. 73-190.
Note.—Former s. 373.241.

373.614 Unlawful damage to district property or works; penalty.—The governing board of the district shall have the power, and is authorized, to offer and pay rewards of up to \$1,000 to any person furnishing information leading to the arrest and conviction of any person who has committed an unlawful act or acts upon the rights-of-way, land, or land interests of the district or has destroyed or damaged district properties or works.

History.—s. 25, ch. 73-190; s. 1, ch. 73-212.
Note.—Former s. 378.163.

373.616 Liberal construction.—The provisions of this chapter shall be liberally construed in order to effectively carry out its purposes.

History.—s. 4, part VI, ch. 72-299.

373.6161 Chapter to be liberally construed.—This chapter shall be construed liberally for effectuating the purposes described herein, and the procedure herein prescribed shall be followed and applied with such latitude consistent with the intent thereof as shall best meet the requirements or necessities therefor.

History.—s. 46, ch. 25209; s. 6, ch. 25213, 1949; s. 25, ch. 73-190.
Note.—Former s. 378.47.

373.617 Judicial review relating to permits and licenses.—

(1) As used in this section, unless the context otherwise requires:

(a) "Agency" means any official, officer, commission, authority, council, committee, department, division, bureau, board, section, or other unit or entity of state government.

(b) "Permit" means any permit or license required by this chapter.

(2) Any person substantially affected by a final action of any agency with respect to a permit may seek review within 90 days of the rendering of such decision and request monetary damages and other relief in the circuit court in the judicial circuit in which

the affected property is located; however, circuit court review shall be confined solely to determining whether final agency action is an unreasonable exercise of the state's police power constituting a taking without just compensation. Review of final agency action for the purpose of determining whether the action is in accordance with existing statutes or rules and based on competent substantial evidence shall proceed in accordance with chapter 120.

(3) If the court determines the decision reviewed is an unreasonable exercise of the state's police power constituting a taking without just compensation, the court shall remand the matter to the agency which shall, within a reasonable time:

(a) Agree to issue the permit;

(b) Agree to pay appropriate monetary damages; however, in determining the amount of compensation to be paid, consideration shall be given by the court to any enhancement to the value of the land attributable to governmental action; or

(c) Agree to modify its decision to avoid an unreasonable exercise of police power.

(4) The agency shall submit a statement of its agreed-upon action to the court in the form of a proposed order. If the action is a reasonable exercise of police power, the court shall enter its final order approving the proposed order. If the agency fails to submit a proposed order within a reasonable time not to exceed 90 days which specifies an action that is a reasonable exercise of police power, the court may order the agency to perform any of the alternatives specified in subsection (3).

(5) The court shall award reasonable attorney's fees and court costs to the agency or substantially affected person, whichever prevails.

(6) The provisions of this section are cumulative and shall not be deemed to abrogate any other remedies provided by law.

History.—ss. 1, 2, 3, 4, 5, 6, ch. 78-85.

Note.—Also published at ss. 161.212, 253.763, 380.085, and 403.90.

372.574 Appointment of subagents for issuance and sale of hunting, fishing, and trapping licenses and permits.

(1) The county tax collector is authorized to appoint any person, firm, partnership, or corporation as a subagent for the sale and issuance of fishing, hunting, and trapping licenses and permits which the tax collector is allowed to sell and issue, giving due consideration to its moral character, business ability, financial responsibility, and proper facilities for the proper issuance of such licenses and permits; and such subagent shall serve at the pleasure of the county tax collector. Neither the employees of the county tax collector nor their relatives or next of kin, by blood or otherwise, shall be appointed as subagents.

(2) A subagent shall issue and sell fishing, hunting, and trapping licenses and permits upon the posting of an adequate bond payable to the county tax collector in an amount to be fixed and approved by the tax collector under such rules and regulations as may be prescribed by the county tax collector and required by existing law or any subsequently enacted legislation.

(3) Subagents are authorized to sell and issue fishing, hunting, and trapping licenses and permits at such specific locations within the county in which the appointing county tax collector shall exercise jurisdiction as, in the judgment of the county tax collector, will best serve the public interest and convenience in obtaining fishing, hunting, and trapping licenses and permits.

(4) It is unlawful for any individual, firm, partnership, or corporation to act as a subagent for the sale and issuance of fishing, hunting, and trapping licenses and permits or to handle, in any manner, fishing, hunting, and trapping licenses and permits for a fee or compensation of any kind unless it has been appointed as a subagent by the county tax collector as prescribed in this section.

(5) Any individual, firm, partnership, or corporation which willfully violates any of the provisions of this law is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(6) Every individual, firm, partnership, or corporation acting as a subagent for the sale and issuance of fishing, hunting, and trapping licenses and permits under the provisions of this section may charge and receive as its compensation a service charge of 50 cents for the issuance of each fishing, hunting, or trapping license or permit. This service charge shall be an additional sum over and above the sum required by law to be collected for the issuance of each license or permit.

(7) Each subagent is required to report on the first of each month the sale and issuance of fishing, hunting, and trapping licenses and permits during the preceding month. Such report shall be accompanied with the proper remittance covering the sale of licenses and permits on such report.

(8) Nothing contained herein shall be construed to relieve any county tax collector of any county of the state of the duty of issuing fishing, hunting, and trapping licenses and permits to the public without the payment of any service charge as required by law.

History. — s. 1, s. ch. 30491, s. 1, ch. 65, 309, s. 310, ch. 71, 136, s. 106, ch. 71, 255, s. 101, ch. 73, 321, s. 1, ch. 80, 308, s. 1, ch. 82, 188.

Note. — The word "or" was substituted for "and" by the editors.
Note. — The words "or permit" were inserted by the editors.

372.61 Reports and remittances of county tax collectors.—The license fees and other fees provided to be paid under this chapter shall be remitted by the several county tax collectors by the 15th of each month to the Game and Fresh Water Fish Commission, and each county tax collector shall retain his fee for issuing such licenses and permits. The Game and Fresh Water Fish Commission shall keep an accurate and up-to-date record of all licenses and permits consigned to the various county tax collectors, giving credit to each account upon receipt of the monthly report of licenses and permits sold or voided, and at the proper time close and balance the seasonal accounts. The tax collector's report shall be a schedule setting forth the total number of licenses and permits sold, the total number of licenses and permits voided, and the net amount of the report. Forms for making these reports are to be furnished by the Game and Fresh Water Fish Commission. The various county tax collectors will retain a file of copies of licenses and permits sold, to aid in issuing duplicates.

History. — s. 14, ch. 13644, 1929, CGL, 1936 Supp. 1977(14), s. 1, ch. 26930, 1951, s. 103, ch. 73, 321, s. 1, ch. 82, 188.

CHAPTER 373

WATER RESOURCES

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PART I

STATE WATER RESOURCE PLAN

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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) "Department" means the Department of Environmental Regulation or its successor agency or agencies.

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

(3) "Governing board" means the governing board of a water management district.

(4) "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.

(5) "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.

(6) "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.

(7) "Nonregulated use" means any use of water which is exempted from regulation by the provisions of this chapter.

(8) "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.

(9) "Ground water" means water beneath the surface of the ground, whether or not flowing through known and definite channels.

(10) "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.

(11) "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.

(12) "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.

(13) "Coastal waters" means waters of the Atlantic Ocean or the Gulf of Mexico within the jurisdiction of the state.

(14) "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.

(15) "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 1, ch. 72-299; s. 37, ch. 79-65; s. 1, ch. 80-259; s. 5, ch. 82-101.

373.0395 Groundwater basin resource availability inventory.—Each water management district shall develop a groundwater basin resource availability inventory covering those areas deemed appropriate by the governing board. This inventory shall include, but not be limited to, the following:

(1) A hydrogeologic study to define the groundwater basin and its associated recharge areas.

(2) Site specific areas in the basin deemed prone to contamination or overdraft resulting from current or projected development.

(3) Prime groundwater recharge areas.

(4) Criteria to establish minimum seasonal surface and groundwater levels.

(5) Areas suitable for future water resource development within the groundwater basin.

(6) Existing sources of wastewater discharge suitable for reuse as well as the feasibility of integrating coastal wellfields.

(7) Potential quantities of water available for consumptive uses.

Upon completion, a copy of the groundwater basin availability inventory shall be submitted to each affected municipality, county, and regional planning agency. This inventory shall be reviewed by the affected municipalities, counties, and regional planning agencies for consistency with the local government comprehensive plan and shall be considered in future revisions of such plan. It is the intent of the Legislature that future growth and development planning reflect the limitations of the available groundwater or other available water supplies.

History.—s. 6, ch. 82-101.

373.0693 Basins; basin boards.—

(1) Any areas within a district may be designated by the district governing board as subdistricts or basins. The designation of such basins shall be made by the district governing board by resolutions thereof. The governing board of the district may change the boundaries of such basins, or create new basins, by resolution. No subdistrict or basin in the St. Johns Water Management District other than established

by this act shall become effective until approved by the Legislature.

(2) Each basin shall be under the control of a basin board which shall be composed of not less than three members, but shall include one representative from each of the included counties in the basin.

(3) Each member of the various basin boards shall serve for a period of 3 years or until his successor is appointed, except that the board membership of each new basin shall be divided into three groups as equally as possible, with members in such groups to be appointed for 1, 2, and 3 years, respectively. Each basin board shall choose a vice chairman and a secretary to serve for a period of 1 year. The term of office of a basin board member shall be construed to commence on July 1 preceding the date of his appointment and to terminate June 30 of the year of the end of his term.

(4) Members of basin boards shall be appointed by the Governor, subject to confirmation by the Senate at the next regular session of the Legislature, and the refusal or failure of the Senate to confirm an appointment shall create a vacancy in the office to which the appointment was made.

(5) Basin board members shall receive no compensation for such services, but while officially on work for the district shall receive their actual traveling expenses and subsistence and lodging, not to exceed the statutory amount allowed state officers and employees, and other expenses in the actual amount incurred.

(6) Notwithstanding the provisions of any other general or special law to the contrary, a member of the governing board of the district residing in the basin or, if no member resides in the basin, a member of the governing board designated by the chairman of the governing board shall be the ex officio chairman of the basin board. The ex officio chairman shall preside at all meetings of the basin board, except that the vice chairman may preside in his absence. The ex officio chairman shall have no official vote, except in case of a tie vote being cast by the members, but shall be the liaison officer of the district in all affairs in the basin and shall be kept informed of all such affairs.

(7) At 11:59 p.m. on December 31, 1976, the Manasota Watershed Basin of the Ridge and Lower Gulf Coast Water Management District, which is annexed to the Southwest Florida Water Management District by change of its boundaries pursuant to chapter 76-243, Laws of Florida, shall be formed into a subdistrict or basin of the Southwest Florida Water Management District, subject to the same provisions as the other basins in such district. Such subdistrict shall be designated initially as the Manasota Basin. The members of the governing board of the Manasota Watershed Basin of the Ridge and Lower Gulf Coast Water Management District shall become members of the governing board of the Manasota Basin of the Southwest Florida Water Management District.

(8)(a) At 11:59 p.m. on December 31, 1976, the area being transferred from the Southwest Florida Water Management District to the St. Johns River Water Management District by change of boundaries pursuant to chapter 76-243, Laws of Florida, shall be formed into a subdistrict or basin of the St. Johns

River Water Management District. Such basin shall be designated as the Oklawaha River Basin. The members of the governing board of the Oklawaha River Basin of the Southwest Florida Water Management District shall become the members of the governing board of the newly formed basin. The governing board of the St. Johns River Water Management District may change the boundaries, but may not abolish the basin.

(b)1. The entire area of the St. Johns River Water Management District, less those areas in the Oklawaha Basin, shall be formed into a subdistrict or basin of the St. Johns River Water Management District. Such area shall be designated as the Greater St. Johns River Basin. The Greater St. Johns River Basin shall have all the powers, duties, functions, and responsibilities provided and authorized for subdistricts or basins of water management districts.

2. The governing board of the St. Johns River Water Management District shall also serve as the governing board of the Greater St. Johns River Basin.

(9) At 11:59 p.m. on December 31, 1976, a portion of the Big Cypress Basin of the Ridge and Lower Gulf Coast District which is being annexed into the South Florida Water Management District by change of boundaries pursuant to chapter 76-243, Laws of Florida, shall be formed into a subdistrict or basin of the South Florida Water Management District. Such portion shall be designated as the Big Cypress Basin. On or before December 31, 1976, the Governor shall appoint not fewer than five persons residing in the area to serve as members of the governing board of the basin, effective at the time of transfer and subject to confirmation by the Senate as provided in subsection (4).

(a) The initial boundaries of the Big Cypress Basin shall be established by resolution of the governing board of Central and Southern Florida Flood Control District, after notice and hearing, and generally shall encompass the Big Cypress Swamp and southwestern coastal area hydrologic cataloging unit, as indicated on River Basin and Hydrologic Unit Map of Florida—1975, Florida Department of Natural Resources, Bureau of Geology Map Series No. 72.

(b) If the governing board shall fail to establish the initial boundaries on or before December 31, 1976, the initial boundaries shall be the same boundaries as described for the Big Cypress Basin of the Ridge and Lower Gulf Coast District.

(c) The governing board of the South Florida Water Management District subsequently may change the boundaries of the basin, but may not abolish the basin.

(10) At 11:59 p.m. on December 31, 1976, the entire area of the South Florida Water Management District, including all areas being annexed into the district pursuant to chapter 76-243, Laws of Florida, but less those areas in the Big Cypress Basin, shall be formed into a subdistrict or basin of the South Florida Water Management District. Such area shall be designated as the Okeechobee Basin.

(a) The governing board of the South Florida Water Management District shall also serve as the governing board of the Okeechobee Basin.

(b) The governing board of the South Florida

Water Management District may change the boundaries of the Okeechobee Basin or may subdivide the basin into smaller basins to be governed by basin boards to be appointed by the Governor, subject to confirmation by the Senate as provided in subsection (4). However, the basin may not be enlarged to include the area included within the initial boundaries of the Big Cypress Basin.

(c) The local effort required in connection with construction, operation, and maintenance of the cooperative federal project referred to as the Central and Southern Florida Flood Control Project, which remains after the upper St. Johns portion is transferred to the St. Johns River Water Management District, shall be funded by tax levies on all taxable property within the Okeechobee Basin. In the event the Okeechobee Basin is subdivided into smaller basins, as authorized in paragraph (b), the governing board shall ascertain the equitable pro rata share for each smaller basin and charge back such share so as to insure that the portion of the Central and Southern Florida Flood Control Project remaining in the South Florida Water Management District shall continue to be funded on an equal basis throughout the entire Okeechobee Basin as initially described on December 31, 1976.

History.—s. 6, ch. 73-190, s. 3, ch. 76-243, s. 1, ch. 77-382; s. 1, ch. 79-50; s. 1, ch. 82-46; s. 1, ch. 82-64.

Note.—Repealed effective October 1, 1988, by s. 1, ch. 82-46, and scheduled for review pursuant to s. 11.611 in advance of that date.

373.0695 Duties of basin boards; authorized expenditures.—[Repealed effective October 1, 1988, by s. 1, ch. 82-46, and scheduled for review pursuant to s. 11.611 in advance of that date.]

373.073 Governing board.—[Repealed effective October 1, 1988, by s. 1, ch. 82-46, and scheduled for review pursuant to s. 11.611 in advance of that date.]

373.076 Vacancies in the governing board; removal from office.—[Repealed effective October 1, 1988, by s. 1, ch. 82-46, and scheduled for review pursuant to s. 11.611 in advance of that date.]

373.079 Members of governing board; oath of office; staff.—[Repealed effective October 1, 1988, by s. 1, ch. 82-46, and scheduled for review pursuant to s. 11.611 in advance of that date.]

373.083 General powers and duties of the governing board.—[Repealed effective October 1, 1988, by s. 1, ch. 82-46, and scheduled for review pursuant to s. 11.611 in advance of that date.]

373.084 District works, operation by other governmental agencies.—[Repealed effective October 1, 1988, by s. 1, ch. 82-46, and scheduled for review pursuant to s. 11.611 in advance of that date.]

373.085 Use of works by other districts.—[Repealed effective October 1, 1988, by s. 1, ch. 82-46, and scheduled for review pursuant to s. 11.611 in advance of that date.]

373.086 Providing for district works.—

(1) In order to carry out the works for the district, and for effectuating the purposes of this chapter, the governing board is authorized to clean out, straighten, enlarge, or change the course of any waterway, natural or artificial, within or without the district; to provide such canals, levees, dikes, dams, sluiceways, reservoirs, holding basins, floodways, pumping stations, bridges, highways, and other works and facilities which the board may deem necessary; to establish, maintain, and regulate water levels in all canals, lakes, rivers, channels, reservoirs, streams, or other bodies of water owned or maintained by the district; to cross any highway or railway with works of the district and to hold, control, and acquire by donation, lease, or purchase, or to condemn any land, public or private, needed for rights-of-way or other purposes, and may remove any building or other obstruction necessary for the construction, maintenance, and operation of the works; and to hold and have full control over the works and rights-of-way of the district.

(2) The works of the district shall be those adopted by the governing board of the district. The district may require or take over for operation and maintenance such works of other districts as the governing board may deem advisable under agreement with such districts.

(3)(a) Notwithstanding the provisions of chapter 120, the temporary construction, operation, or maintenance of water supply backpumping facilities to be used for storage of surplus water shall not require a permit under this chapter, chapter 253, or chapter 403 from the Department of Environmental Regulation if the governing board issues an order declaring a water emergency which order is approved by the Secretary of Environmental Regulation. Such approval may be given by telephone and confirmed by appropriate order at a later date. The temporary construction, operation, or maintenance of the facilities shall cease when the governing board or the secretary issues an order declaring that the emergency no longer exists. If the district intends to operate any such facilities permanently under nonemergency conditions, it shall apply for the appropriate required permits from the Department of Environmental Regulation within 30 days of rescinding the emergency order.

(b) Notwithstanding the provisions of chapter 120, emergency orders issued pursuant to this subsection shall be valid for a period of 90 days and may be renewed for a single 90-day period.

History.—s. 16, ch. 25209, 1949; s. 2, ch. 29790, 1955; s. 1, ch. 61-147; s. 3, ch. 61-497; s. 2, ch. 63-224; s. 1, ch. 67-208; s. 1, part VI, ch. 72-299; s. 25, ch. 73-190; s. 1, ch. 82-46; s. 4, ch. 82-101.

Note.—Repealed effective October 1, 1988, by s. 1, ch. 82-46 and scheduled for review pursuant to s. 11.611 in advance of that date.

Note.—Former s. 378.16.

373.087 District works using aquifer for storage and supply.—[Repealed effective October 1, 1988, by s. 1, ch. 82-46, and scheduled for review pursuant to s. 11.611 in advance of that date.]

373.088 Application fees for certain real estate transactions.—The governing board may adopt rules to provide for the assessment and collection of reasonable fees for the processing of applica-

tions for sale, easement, lease, exchange, release, non-use commitment, disclaimer, quitclaim deed, or rescission or correction of deed with respect to any interest in lands, such fees to be commensurate with the actual cost of processing such applications.

History.— s. 3, ch. 82-101.

Note.— The word "deed" was inserted by the editors.

Note.— The words "with respect to" were substituted by the editors for the word "for."

373.089 Sale of lands.—The governing board of the district may sell lands to which the district has acquired title or to which it may hereafter acquire title in the following manner:

(1) Any lands determined by the governing board to be surplus may be sold by the district, at any time for the highest price obtainable.

(2) All sales of land shall be for cash or upon terms and security to be approved by the governing board, but a deed therefor shall not be executed and delivered until full payment is made.

(3) Before selling any land, except as provided in subsection (5), it shall be the duty of the district to cause a notice of intention to sell to be published in a newspaper published in the county in which the land is situated once each week for 3 successive weeks (three insertions being sufficient), the first publication of which shall be not less than 30 days nor more than 45 days prior to any sale, which notice shall set forth the time and place of the sale and a description of lands to be offered for sale.

(4) All sales shall be conducted at the county courthouse in the county in which the land is located on any day of the week except Sunday and at any time specified in the notice between the hours of 11 a.m. and 2 p.m.

(5) Public sale shall not be required when surplus lands are being resold to the then owner of that adjacent parcel from which the surplus land was originally parted; provided such sale is made within 1 year from the time the land is declared surplus; and the owner of the adjacent parcel shall be notified by registered mail to the address shown on the county tax roll within 30 days after the land is declared surplus.

(6) Public sale shall not be required when a building determined to be surplus was constructed or purchased using funds from the General Revenue Fund and the buyer is another regional agency or state agency that will use the structure in furtherance of its programs.

History.— s. 1, ch. 20790, 1955; s. 25, ch. 73-190; s. 1, ch. 82-46; s. 9, ch. 82-101.

Note.— Repealed effective October 1, 1988, by s. 1, ch. 82-46, and scheduled for review pursuant to s. 11.611 in advance of that date.

Note.— Former s. 378.08.

373.093 Lease of lands or interest in land.—[Repealed effective October 1, 1988, by s. 1, ch. 82-46, and scheduled for review pursuant to s. 11.611 in advance of that date.]

373.096 Releases.—[Repealed effective October 1, 1988, by s. 1, ch. 82-46, and scheduled for review pursuant to s. 11.611 in advance of that date.]

373.099 Execution of instruments.—[Repealed effective October 1, 1988, by s. 1, ch. 82-46,

and scheduled for review pursuant to s. 11.611 in advance of that date.]

373.103 Powers which may be vested in the governing board at the department's discretion.—[Repealed effective October 1, 1988, by s. 1, ch. 82-46, and scheduled for review pursuant to s. 11.611 in advance of that date.]

373.1961 Water production.—In the performance of, and in conjunction with, its other powers and duties, the governing board of a water management district existing pursuant to chapter 373:

(1) Shall engage in planning to assist counties, municipalities, and regional water supply authorities in meeting the water supply needs within its district in such manner as will give priority to encouraging conservation and reducing adverse environmental effects of improper or excessive withdrawals of water from concentrated areas.

(2) Upon request of a county, municipality, or regional water supply authority, shall assist such counties and municipalities and water supply authorities in meeting the water supply needs within its district in such manner as will give priority to encouraging conservation and reducing adverse environmental effects of improper or excessive withdrawals of water from concentrated areas.

(3) At the request of a county, municipality, or regional water supply authority, may establish water production and transmission facilities for the purpose of supplying water to such counties, municipalities, and regional water supply authorities.

(4) Shall not engage in local distribution.

(5) Shall not deprive, directly or indirectly, any county wherein water is withdrawn of the prior right to the reasonable and beneficial use of water which is required to supply adequately the reasonable and beneficial needs of the county or any of the inhabitants or property owners therein.

(6) May provide water and financial assistance to regional water supply authorities, but may not provide water to counties and municipalities which are located within the area of such authority without the specific approval of the authority or, in the event of the authority's disapproval, the approval of the Governor and Cabinet sitting as the Land and Water Adjudicatory Commission. The district may supply water at rates and upon terms mutually agreed to by the parties or, if they do not agree, as set by the governing board and specifically approved by the Governor and Cabinet sitting as the Land and Water Adjudicatory Commission.

(7) May acquire title to such interest as is necessary in real property, by purchase, gift, devise, lease, eminent domain, or otherwise, for water production and transmission consistent with this section. However, the district shall not use any of the eminent domain powers herein granted to acquire water and water rights already devoted to reasonable and beneficial use or any water production or transmission facilities owned by any county, municipality, or regional water supply authority.

History.— s. 2, ch. 74-114, c. 14, ch. 76-243; s. 7, ch. 82-101.

PART II

PERMITTING OF CONSUMPTIVE
USES OF WATER

- 373.216 Implementation of program for regulating the consumptive use of water.
 373.245 Violations of permit conditions.
 373.246 Declaration of water shortage or emergency.

373.216 Implementation of program for regulating the consumptive use of water.—The governing board of each water management district shall, no later than October 31, 1983, implement a program for the issuance of permits authorizing the consumptive use of particular quantities of water covering those areas deemed appropriate by the governing board. Appropriate monitoring efforts shall be a part of any such program implemented. Notice of any required hearing on the proposed implementation of these regulations shall be published at least once a week for 2 weeks in a newspaper of general circulation in the area to be affected by such regulations, the last notice appearing no less than 10 days prior to the date of the public hearing, in addition to any notice required by chapter 120.

History.—s. 1, part II, ch. 72-299; s. 8, ch. 73-136; s. 14, ch. 78-95; s. 8, ch. 82-101.

373.245 Violations of permit conditions.—Holders of consumptive use permits who violate conditions of such permits shall be liable to abutting consumptive use permit holders for damages caused by such permit violations. No cause of action shall accrue under this section until the complainant has first applied for and then been denied relief by the water management district for the permit violations complained of. The provisions of this section are supplemental, and nothing in this section is intended to preclude the use of any other existing cause of action, remedy, or procedure.

History.—s. 10, ch. 82-101.

373.246 Declaration of water shortage or emergency.—

(1) The governing board or the department by regulation shall formulate a plan for implementation during periods of water shortage. Copies of the water shortage plan shall be submitted to the Speaker of the House of Representatives and the President of the Senate no later than October 31, 1983. As a part of this plan the governing board or the department shall adopt a reasonable system of permit classification according to source of water supply, method of extraction or diversion, use of water, or a combination thereof.

(2) The governing board or the department by order may declare that a water shortage exists within all or part of the district when insufficient water is available to meet the requirements of the permit system or when conditions are such as to require temporary reduction in total use within the area to protect water resources from serious harm. Such orders shall be final agency action.

(3) In accordance with the plan adopted under subsection (1), the governing board or the depart-

ment may impose such restrictions on one or more classes of permits as may be necessary to protect the water resources of the area from serious harm and to restore them to their previous condition.

(4) A declaration of water shortage and any measures adopted pursuant thereto may be rescinded by the governing board or the department.

(5) When a water shortage is declared, the governing board or the department shall cause notice thereof to be published in a prominent place within a newspaper of general circulation throughout the area. Publication of such notice shall serve as notice to all users in the area of the condition of water shortage.

(6) The governing board or the department shall notify each permittee in the district by regular mail of any change in the condition of his permit or any suspension of his permit or of any other restriction on his use of water for the duration of the water shortage.

(7) If an emergency condition exists due to a water shortage within any area of the district, and if the department, or the executive director with the concurrence of the governing board, finds that the exercise of powers under subsection (1) are not sufficient to protect the public health, safety, or welfare, the health of animals, fish or aquatic life, a public water supply, or recreational, commercial, industrial, agricultural, or other reasonable uses, it or he may, pursuant to the provisions of s. 373.119, issue orders reciting the existence of such an emergency and requiring that such action, including but not limited to apportioning, rotating, limiting, or prohibiting the use of the water resources of the district, be taken as the department or the executive director deems necessary to meet the emergency.

(8) An affected party to whom an emergency order is directed under subsection (7) shall comply immediately, but may challenge such an order in the manner set forth in s. 373.119.

History.—s. 10, part II, ch. 72-299; s. 14, ch. 78-95; s. 11, ch. 82-101.

PART IV

MANAGEMENT AND STORAGE
OF SURFACE WATERS

- 373.403 Definitions.
 373.406 Exemptions.

373.403 Definitions.—When appearing in this part or in any rule, regulation, or order adopted pursuant thereto, the following terms mean:

(1) "Dam" means any artificial or natural barrier, with appurtenant works, raised to obstruct or impound, or which does obstruct or impound, any of the surface waters of the state.

(2) "Appurtenant works" means any artificial improvements to a dam which might affect the safety of such dam or, when employed, might affect the holding capacity of such dam or of the reservoir or impoundment created by such dam.

(3) "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.

(4) "Reservoir" means any artificial or natural

holding area which contains or will contain the water impounded by a dam.

(5) "Works" means all artificial structures, including, but not limited to, ditches, canals, conduits, channels, culverts, pipes, and other construction that connects to, draws water from, drains water into, or is placed in or across the waters in the state.

(6) "Closed system" means any reservoir or works located entirely within agricultural lands owned or controlled by the user and which requires water only for the filling, replenishing, and maintaining the water level thereof.

(7) "Alter" means to extend a dam or works beyond maintenance in its original condition, including changes which may increase or diminish the flow or storage of surface water which may affect the safety of such dam or works.

(8) "Maintenance" or "repairs" means remedial work of a nature as may affect the safety of any dam, impoundment, reservoir, or appurtenant work or works, but excludes routine custodial maintenance.

History.—s. 1, part IV, ch. 72-299; s. 18, ch. 73-190; s. 4, ch. 80-259; s. 1, ch. 82-101.

373.406 Exemptions.—The following exemptions shall apply:

(1) Nothing herein, or in any rule, regulation, or order adopted pursuant hereto, shall be construed to affect the right of any natural person to capture, discharge, and use water for purposes permitted by law.

(2) Nothing herein, or in any rule, regulation, or order adopted pursuant hereto, shall be construed to affect the right of any person engaged in the occupation of agriculture, silviculture, floriculture, or horticulture to alter the topography of any tract of land for purposes consistent with the practice of such occupation. However, such alteration may not be for the sole or predominant purpose of impounding or obstructing surface waters.

(3) Nothing herein, or in any rule, regulation, or order adopted pursuant hereto, shall be construed to be applicable to construction, operation, or maintenance of any agricultural closed system. However, part II of this chapter shall be applicable as to the taking and discharging of water for filling, replenishing, and maintaining the water level in any such agricultural closed system. This subsection shall not be construed to eliminate the necessity to meet generally accepted engineering practices for construction, operation, and maintenance of dams, dikes, or levees.

(4) All rights and restrictions set forth in this section shall be enforced by the governing board or the Department of Environmental Regulation or its successor agency, and nothing contained herein shall be construed to establish a basis for a cause of action for private litigants.

History.—s. 2, part IV, ch. 72-299; s. 47, ch. 79-65; s. 5, ch. 80-259; s. 2, ch. 82-101.

PART V

FINANCE AND TAXATION

- 373.507 Districts, basins, and taxing authorities; budget and expense reports; audits.
373.553 Treasurer of the board; depositories.

373.507 Districts, basins, and taxing authorities; budget and expense reports; audits.—Each district and basin referred to in chapter 373 shall furnish a detailed copy of its budget and past year's expenditures to the Governor, the Legislature, and the governing body of each county in which the district or basin has jurisdiction or derives any funds for the operations of the district or basin. Each district, basin, and taxing authority shall make provision for an annual postaudit of its financial accounts. These postaudits shall be made in accordance with the rules of the Auditor General promulgated pursuant to ss. 166.241 and 11.47.

History.—s. 16, ch. 76-243; s. 1, ch. 77-367; s. 12, ch. 82-101.

373.553 Treasurer of the board; depositories.—

(1) The governing board shall designate a treasurer who shall be custodian of all funds belonging to the board and to the district, and such funds shall be disbursed upon the order of, or in the manner prescribed by, the governing board by warrant or check signed by the treasurer or assistant treasurer and countersigned by the chairman or vice chairman of the board. The board is authorized to establish procedures for disbursement of funds in such amounts and in such manner as the board may prescribe, except that disbursement of funds prior to specific board approval may only be authorized upon certification by its chief executive officer or his designated assistant to the treasurer or assistant treasurer and to the chairman or vice chairman of the board that such disbursement is proper and in order and is within budgetary limits. Any such disbursements shall be reported to the board at its next regular meeting.

(2) The board is authorized to select as depositories in which the funds of the board and of the district shall be deposited in any qualified public depository as defined in s. 280.02, and such deposits shall be secured in the manner provided in chapter 280.

History.—s. 33, ch. 25209, 1949; s. 3, ch. 63-224; s. 25, ch. 73-190; s. 1, ch. 73-213; s. 115, ch. 77-104; s. 13, ch. 82-101.

Note.—Former s. 378.33.

PART VI

MISCELLANEOUS PROVISIONS

373.619 Recognition of water and sewer-saving devices.

373.619 Recognition of water and sewer-saving devices.—The Legislature urges all public-owned or investor-owned water and sewerage systems to reduce connection fees and regular service charges for customers who utilize water or sewer-saving devices, including, but not limited to, individual gray-water disposal systems.

History.—s. 2, ch. 82-10.

CHAPTER 374

CANAL AUTHORITY; NAVIGATION DISTRICTS; WATERWAYS DEVELOPMENT

**RULES
OF THE
SOUTH FLORIDA WATER MANAGEMENT DISTRICT
CHAPTER 40E-1**

GENERAL AND PROCEDURAL

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**PART I
GENERAL**

40E-1.101 General.

(1) This chapter provides the information about the South Florida Water Management District required in subsection 120.53(1), Florida Statutes. Part I describes the District's organization, its source of authority and other general information. Part II describes how meetings and workshops are scheduled. Part III provides information on the District's rulemaking process. Part IV describes the procedures for filing and considering petitions for declaratory statements. Part V contains the rules of practice and procedure for both formal and informal hearings. Part VI provides rules which specifically relate to permitting.

Specific Authority 373.044, 373.113 F.S.
Law Implemented 120.53(1), 373.044, 373.113 F.S.
History--New, 9-3-81.
Formerly 16K-1.01

40E-1.102 Definitions.

When used in chapter 40E:

(1) "Act" means the Florida Water Resources Act of 1972, Chapter 373, Florida Statutes, and amendments to it.

(2) "Board" means the Governing Board of the District.

(3) "District" means the South Florida Water Management District or its successor agency.

(4) "Executive Director" means the Executive Director of the District.

(5) "Presiding officer" means the Board, or member thereof, who conducts a hearing on behalf of the District, a Hearing Officer assigned by the Division of Administrative Hearings, or any other person authorized to conduct administrative hearings.

(6) The terms defined in chapters 120 and 373, Florida Statutes, shall have the same meanings in chapter 40E.

Specific Authority: 120.54(10), 373.044, 373.113 F.S.

Law Implemented 120.53(1)(a), 373 Parts I, II and IV F.S.

History--New, 9-3-81.

Formerly 16K-1.05, 16K-1.11(1)

40E-1.103 The District.

(1) The District is responsible for the management and control of all waters and related land resources in the District. To fulfill these responsibilities the District has implemented comprehensive permitting programs to regulate the consumptive use of water and the construction, alteration, operation and maintenance of dams, impoundments, reservoirs, appurtenant works and works. In addition the District constructs, operates and maintains works of the District, regulates their use by others, and is the local sponsor of the federally authorized "Central and Southern Florida Flood Control Project" (House Document 643, 80th Congress, 2nd Session). The District boundaries are reflected graphically in Figure 1-1.

(2) The District operates pursuant to the procedures provided by chapters 120 and 373, Florida Statutes.

Specific Authority 373.044, 373.113 F.S.

Law Implemented 120.53(1)(a), 373.079-373.175 F.S.

History--New, 9-3-81.

Formerly 16K-1.01, 16K-1.02

40E-1.104 The Governing Board.

(1) The Board is the agency head of the District. It is composed of nine members, who must reside within the areas specified in paragraph 373.073(1)(b)4, Florida Statutes. Board members are appointed by the Governor and confirmed by the Senate for staggered four year terms.

(2) In addition to the powers and duties given to the Board in chapters 120 and 373 Florida Statutes, the Board may exercise powers delegated to it by the Florida Department of Environmental Regulation.

Specific Authority: 373.044, 373.113 F.S.
Law Implemented 120.53(1)(a), 373.073, Chapter 373, Parts I, II, IV, V & VI F.S.
History--New, 9-3-81.

40E-1.105 General Description of District Organization and Operations.

The District is composed of the Board, the executive office, four operational departments and two support departments. The internal organizational structure of the District is reflected graphically in Figure 1-2.

(1) The Governing Board. The functions, duties and responsibilities of the Board are described in rule 40E-1.104.

(2) The Executive Office. This office is responsible for the overall management of the District, the implementation of all District plans and studies, the enforcement of all District rules and regulations and the legal support and advice for all functions. This office includes the Executive Director, Deputy Executive Director, Interagency Coordinator, the Special Projects Division, Executive staff, Public Information and Office of Counsel.

(a) The Executive Director is the chief executive officer of the District and Secretary to the Board. He is responsible for the overall management and review of the District programs including the coordination of Board activities and the implementation of Board decisions and directives as well as providing general direction and guidance by allocating organizational resources and reviewing organizational performance.

(b) The Deputy Executive Director is the chief operating officer of the District. His

duties and responsibilities include the overall management and supervision of the District staff, the execution and enforcement of orders and rules of the Board, and the performance of the responsibilities and duties authorized in Chapter 373, Florida Statutes, or delegated to him by the Board.

(c) The Interagency Coordinator is a liaison between elected officials, the legislature and other governmental agencies and the District.

(d) The Special Projects Division is responsible for the administration and coordination of activities, studies and programs of areas of special concern which impact the District. The Division is also responsible for land development review throughout the District.

(e) The Executive Staff is responsible for providing support services for programs within the Executive Department excluding Office of Counsel.

(f) The Office of Counsel includes the District Counsel, the Deputy District Counsel and staff attorneys. This Office provides all of the legal support and advice to the Board and the District staff. The legal support and advice provided by the Office includes researching and drafting general legal opinions for policy development, planning and operations, representation of the District in all judicial and administrative proceedings, drafting of contracts, leases, rules, and legislation, and legal counselling on other matters relating to District business.

(3) Resource Planning Department. This department is responsible for studies of the water resources including water resource planning, hydraulics, water quality, environmental impacts, biological impacts, geohydraulics and all related areas. The department includes the Department Director, the Water Resources Division, the Water Chemistry Division, the Environmental Sciences Division and the Ground Water Division.

(a) The Department Director is responsible for oversight of water use planning, surface and groundwater studies, water quality studies, water related environmental studies, and land and water related economic studies.

(b) The Water Resources Division is responsible for conducting studies of surface water hydrology, including interpreting data, assisting in making and evaluating surface water management decisions, and providing general

technical support for water resource planning and other District programs.

(c) The Water Chemistry Division is responsible for conducting water quality and related environmental studies, including interpreting data, evaluating the water quality and related environmental impacts of water resource management decisions, and providing general technical support for water resource planning and other District programs.

(d) The Environmental Sciences Division is responsible for conducting biological and other environmental studies, including interpreting data, evaluating the biological and other environmental impacts of water resource management decisions, and providing general technical support for water resource planning and other District programs.

(e) The Ground Water Division is responsible for conducting studies of ground water geohydrology, including interpreting data, evaluating the geohydrological impacts of water resource management decisions, and providing general technical support for water resource planning and other District programs.

(4) Resource Management Department. This department is responsible for the management of all District real property interests including acquisition, survey, design, construction, operation, repair and sale. The department includes the Department Director, the Engineering Design Division, the Parks and Recreation Division, the Real Estate Division, and the Survey and Right of Way Engineering Division.

(a) The Department Director is responsible for oversight of the management and administration of all District real property interests, including the administration of all construction, alteration or repair of works of the District and other District lands.

(b) The Engineering Design Division is responsible for designing, overseeing construction and administering contracts for non-federal District projects. The Division also serves as design liaison with the U. S. Army Corps of Engineers and reviews proposed Corps of Engineers projects relating to the Central and Southern Florida Flood Control Project. The Division also administers the District's spoil disposal program.

(c) The Parks and Recreation Division is responsible for the conceptual design and the operation and management of all District parks and recreational facilities and coordination of

District recreational programs with other agencies and interested groups.

(d) The Real Estate Division is responsible for District land acquisition and disposal, including conducting title searches and appraisals, assisting in eminent domain proceedings and evaluating requests for sale, lease or exchange of District lands, and releases of canal, road and mineral reservations owned by the District and other agencies. The division is also the custodian of all records relating to the District's land inventory, and provides support for other District programs.

(e) The Survey and Right of Way Engineering Division is responsible for all field and office survey information for the District. This includes the preparation of maps, graphs, descriptions, right of way designs and subdivision approvals. The division is also responsible for all right of way maps, drawings, plans and related documents.

(5) Resource Control Department. This department is responsible for all District regulatory programs except those relating to use of works of the District. The department includes the Department Director, the Permit Administration Division, the Surface Water Management Division and the Water Use Division.

(a) The Department Director is responsible for oversight of the development and administration of the surface water management and water use regulatory programs.

(b) The Permit Administration Division is responsible for all administrative matters relating to permit processing. The Division is also responsible for enforcement of permits, the provisions of Chapter 373, Florida Statutes and this chapter.

(c) The Surface Water Management Division is responsible for the technical evaluation of applications for surface water management permits and the development of criteria and standards for surface water management systems within the District.

(d) The Water Use Division is responsible for the technical evaluation of applications for water use permits and the development of criteria and standards for water uses within the District.

(6) Field Services Department. This department is responsible for the operation and maintenance of the works and lands of the District, the maintenance of District buildings and support equipment, and the construction of

projects in support of other District programs. The department includes the Department Director, the Administration Division, the Facilities Engineering Division, the Operations Division, the Electronics Division, the Central Stores Division, the Building Maintenance Division, the Weed Control Division, the Safety and Training Division, the Permit Division, the Electrical Division, the Mobile Division and the Field and Pumping Stations.

(a) The Department Director is responsible for oversight of all Divisions and Field and Pumping Stations.

(b) The Administration Division is responsible for the review and analysis of project activity reports, the preparation of cost reports, budgets and overall administration of the field and pumping stations.

(c) The Facilities Engineering Division is responsible for providing the engineering, maintenance, repair and overhaul of the District's structures including emergency measures.

(d) The Operations Division is responsible for the operation of the structures and pumps within the District and the collection and analysis of hydrological data to establish and maintain water levels throughout the District.

(e) The Electronics Division is responsible for the maintenance of District communications, telemetry system and other electronic equipment. It procures, provides and fabricates all electronic items and equipment for the District.

(f) The Central Stores Division is responsible for the procurement and distribution of all supplies and related items for the District.

(g) The Building Maintenance Division is responsible for the maintenance of all District buildings and related appurtenances.

(h) The Weed Control Division is responsible for chemical and mechanical control of weeds in all District waterways and other areas accepted by the District for weed control.

(i) The Safety and Training Division is responsible for the evaluation and implementation of a program of employee health, safety and awareness, including employee safety education and accident prevention throughout the District.

(j) The Permit Division is responsible for evaluation of all applications

for right of way occupancy permits and the development of criteria and standards for use of the works of the District.

(k) The Electrical Division is responsible for all electrical maintenance and repair throughout the entire District, as well as the maintenance and repair of all hydraulic equipment of the District.

(l) The Mobile Division is responsible for the District car pool, overall maintenance, inspection and repair of all District vehicles, boats, construction equipment and all other mobile equipment.

(m) The Field and Pumping Stations are responsible for the operation and maintenance of the field stations, levees, canals and rights of way within their area as well as other related duties as assigned.

(7) The Technical Services Department. This department is responsible for collecting, processing, handling, and disseminating the information and data required to support the District's programs. The department includes the Data Management Division, the Data Processing Division, the Graphic Communications Division, the Land Resources Division, the Reference Center and the Water Quality Laboratory.

(a) The Data Collection Division is responsible for installation, maintenance and collection of all water resource data required for District hydrological-meteorological studies.

(b) The Data Processing Division is responsible for providing computer operation and data entry services for all District programs. In addition programming services are provided to develop and maintain software applications.

(c) The Graphic Communications Division is responsible for printing, duplicating, reproduction services and graphic art support for the District.

(d) The Land Resources Division is responsible for developing and analyzing geographic data for all District programs and maintaining an interactive graphics computer system.

(e) The Reference Center is responsible for acquisition, distribution and storage of research, legislative and archival materials. It also conducts literature searches in support of all District programs.

(f) The Water Quality Laboratory is responsible for performing analytical tasks on

water, soil and plant samples. It is also responsible for the operation and maintenance of the lab facility and related quality assurance programs.

Specific Authority: 373.044, 373.113 F.S.
Law Implemented 120.53(1)(a), 373.079(4),(5) F.S.

History--New, 9-3-81.

Formerly 16K-1.16(2)

40E-1.107 Basins Within The District.

(1) The District is divided into the Okeechobee and Big Cypress Basins.

(2)(a) The Big Cypress Basin boundaries are as established in District Resolution Number 77-01, adopted November 12, 1976 and amended December 17, 1976.

(b) The Okeechobee Basin boundaries are as established in paragraph 373.069(3)(e) Florida Statutes, less the area within the Big Cypress Basin.

(3) The District and Basin boundaries are reflected graphically in Figure 1-1.

Specific Authority: 373.044, 373.113 F.S.
Law Implemented 373.069(3)(e), 373.0693(9) 373.0693(10), F.S.

History--New, 9-3-81.

40E-1.121 General Information Concerning the District.

(1) The main office of the District and the Okeechobee Basin is located at 3301 Gun Club Road, West Palm Beach, Florida. The mailing address is P. O. Box V, West Palm Beach, Florida, 33402. The telephone number is (305) 686-8800 or 1-800-432-2045.

(2) The main office of the Big Cypress Basin is located at 3504 Radio Road, Naples, Florida. The mailing address is Post Office Box 8325, Naples, Florida 33941. The telephone number is (813) 775-3241.

(3) Office hours are from 8:00 A.M. to 5:00 P.M. daily, Monday through Friday, except on official holidays. Permit applications, District forms, publications, documents, or other information may be obtained at the main office, The Big Cypress Basin office, or requested by mail or telephone.

Specific Authority: 373.044, 373.113 F.S.

Law Implemented 120.53(1) F.S.

History--New, 9-3-81.

Formerly 16K-1.16(5),(6),(8)

40E-1.123 Statutory Chapters and Rules.

Statutory chapters and rules that affect the District operation or which may be of interest to persons dealing with the District include:

(1) Chapter 25270, Laws of Florida (1949), as amended and Chapter 67-698, Laws of Florida (1967);

(2) Chapters 119, 120, 286, 298, 373, 380 and 403, Florida Statutes; and

(3) Chapters 17-1, 17-21, 28, and 40E, Florida Administrative Code.

Specific Authority: 373.044, 373.113 F.S.

Law Implemented 120.53(1) F.S.

History--New, 9-3-81.

Formerly 16K-1.01, 16K-1.02, 16K-1.16(1),(3)

40E-1.125 Public Information and Inspection of Records.

(1) All District public records within the meaning of chapter 119, Florida Statutes, and not otherwise restricted by law may be copied or inspected at the District's main office, during the hours specified in rule 40E-1.121.

(2) Forms and instructions used by the District in dealing with the public are available without cost. Copies of other public records may be made at a charge of at least 15 cents per page or not to exceed the actual cost of reproduction, pursuant to the provisions of subsections 119.07(1) and 120.53(2) Florida Statutes.

(3) If more than ten pages are requested to be copied, the District may require that the copies be made at its convenience within a reasonable time and forwarded by mail to the recipient. In such event, the recipient shall pay the cost of such copies in advance.

(4) The District may require persons requesting written notification of water use or surface water management permit applications pursuant to subsection 40E-1.603(3) to pay in advance a reasonable charge which reflects the anticipated cost of providing such notice, and keep on deposit with the District an amount sufficient to cover such costs.

Specific Authority: 373.044, 373.113 F.S.

Law Implemented 119.07(1), 120.53(1)(b), 120.53(2), 286.011(2) F.S.

History--New, 9-3-81.

Formerly 16K-1.16(4),(7)

40E-1.132 District Clerk and Official Reporter.

(1) The District Clerk shall perform the following duties:

(a) Date and file all orders entered by the Board or the Executive Director;

(b) Forward a copy of all orders rendered after a proceeding affecting substantial interests has been held to the District's official reporter;

(c) Act as the "clerk of the lower tribunal" for purposes of the Florida Rules of Appellate Procedure;

(d) Receive and file the original of any pleading received by the District pursuant to this chapter;

(e) Appoint such Deputy Clerks as are necessary to perform any of the duties of the District Clerk; and

(f) Perform such other duties as may be authorized or required in this chapter.

(2) The District designates the Executive Director as its District Clerk for the purposes enumerated in subsection (1). The Executive Director's street address, mailing address, and telephone number are found in subsection 40E-1.121(1).

(3) The District designates Judicial and Administrative Research Associates, Inc. (JARA), publishers of the Florida Administrative Law Reports, as its official reporter for the purpose of publishing and indexing by subject matter all District orders rendered after a proceeding which affects substantial interests has been held.

Specific Authority: 373.044, 373.113 F.S.

Law Implemented 120.52(9), 120.53(1), 120.53(2)(b), (c), 120.53(3), 120.53(4), 120.54(10), 120.59(1), 373.171, F.S.

History--New, 9-3-81.

40E-1.133 Public Access.

A person may have access to the records and information compiled and held by the District as provided in subsection 40E-1.125(1) and may attend any public meeting or hearing held by the District.

Specific Authority: 373.044, 373.113 F.S.

Law Implemented 119.07, 119.08, 120.53(3) F.S.

History--New, 9-3-81.

Formerly 16K-1.16(4)

PART II MEETINGS AND WORKSHOPS

40E-1.201 Notice of Meeting or Workshop.

(1) Except in the case of emergency meetings, the District shall give at least seven days public notice of any meeting or workshop by publication in the Florida Administrative Weekly.

(2) The notice of meeting or workshop shall state:

(a) The date, time and place of the event.

(b) A brief description of the purpose of the event.

(c) The address where interested persons can write to obtain a copy of the agenda.

(3) The District shall utilize the following form in providing notice of the meeting or workshop.

NOTICE OF PUBLIC MEETING OR WORKSHOP

The South Florida Water Management District announces a public meeting (or workshop) to which all persons are invited.

DATE AND TIME:

PLACE:

PURPOSE:

A copy of the agenda may be obtained by writing to the South Florida Water Management District at P. O. Box V, West Palm Beach, Florida 33402.

Appeals from any South Florida Water Management District Board decision require a record of the proceedings. Although Governing Board meetings and hearings are normally recorded, affected persons are advised that it may be necessary for them to ensure that a verbatim record of the proceeding is made, including the testimony and evidence upon which the appeal is to be based.

(4) A meeting for the purposes of notice herein is limited to a gathering for the purpose of conducting public business by the Board.

(5) A workshop is a gathering where members of the Board may be present, or persons designated by the Board are meeting for the purpose of discussion of District business and projects, at which time no official vote is to be taken or policy adopted.

Specific Authority: 373.044, 373.113 F.S.

Law Implemented 120.53(1)(d), 373.079(7) F.S.

History--New, 9-3-81.

Formerly 16K-1.17(1),(8).

40E-1.203 Agenda of Meetings and Workshops.

(1) The agenda shall be prepared by the District in time to insure that a copy may be received at least seven days before the meeting or workshop by any person in the state who has requested one.

(2) The agenda shall list the items in the order they are to be considered. For good cause stated in the record, items on the agenda may be considered out of their stated order with the approval of the person designated to preside.

(3)(a) The agenda shall be specific as to items to be considered. All matters involving the exercise of District discretion and policy-making shall be listed and summarized on the agenda. Additions to agenda items such as "old business," "new business," "other business" or "other matters which may come before the District Board" or similar terms shall be for consideration of solely ministerial, or internal-administrative matters which do not affect the interests of the public generally.

(b) The District may utilize the following, or different forms substantially the same in detail, in preparing its agendas.

1:SOUTH FLORIDA WATER MANAGEMENT DISTRICT

GOVERNING BOARD MEETING
REGULAR MATTERS

TIME, DATE & PLACE OF MEETING
THIS MEETING IS OPEN TO THE PUBLIC

Call to Order

Approval of Minutes

Executive Office

Specific listing of all matters involving District discretion or policy-making with brief summary of each.

Administration

Specific listing of all matters involving District discretion or policy-making with brief summary of each.

Field Services

Specific listing of all matters involving District discretion or policy-making with brief summary of each.

Office of Counsel

Specific listing of all matters involving District discretion or policy-making with brief summary of each.

Resource Planning

Specific listing of all matters involving District discretion or policy-making with brief summary of each.

Technical Services

Specific listing of all matters involving District discretion or policy-making with brief summary of each.

Resource Management

Specific listing of all matters involving District discretion or policy-making with brief summary of each.

2:SOUTH FLORIDA WATER MANAGEMENT DISTRICT

GOVERNING BOARD MEETING
REGULATORY MATTERS

TIME, DATE & PLACE OF MEETING
THIS MEETING IS OPEN TO THE PUBLIC

Call to Order

Approval of Minutes

Public Hearings

Specific listing of all matters involving District discretion or policy-making with brief summary of each.

Regulatory Matters

Specific listing of all matters involving District discretion or policy-making with brief summary of each.

(4) Requests to be placed on a meeting or workshop agenda must be in writing and received by the District no later than 10 days before the meeting or workshop. The person designated to preside may make specific changes in the agenda after it has been made available for distribution, only for "good cause" shown.

(5) The agenda shall provide that the meeting or workshop shall be open to the public unless specifically provided otherwise by law.

Specific Authority: 373.044, 373.113 F.S.

Law Implemented 120.53(1)(d) F.S.

History--New, 9-3-81.

Formerly 16K-1.17(2) through (6), (8)(a), (9).

40E-1.207 Emergency Meetings.

(1) The District may hold an emergency meeting notwithstanding the provisions of rules 40E-1.201 and 40E-1.203 for the purpose of acting upon emergency matters affecting the public health, safety or welfare. Procedures for adopting an emergency rule are contained in rule 40E-1.337.

(2) Whenever an emergency meeting is scheduled to be held, the District shall notify at least one major newspaper of general

circulation in the area where the meeting will take place and may also notify all major wire services of the time, date, place and purpose of the meeting.

(3) Following an emergency meeting, the District shall publish in the Florida Administrative Weekly notice of the time, date and place of the meeting, a statement setting forth the reasons why an emergency meeting was necessary and a statement setting forth the action taken at the meeting.

Specific Authority: 373.044, 373.113 F.S.

Law Implemented 120.53(1)(d) F.S.

History--New, 9-3-81.

Formerly 16K-1.17(7)

PART III RULEMAKING PROCEEDINGS

40E-1.301 Commencement of Proceedings.

Proceedings held for the adoption, amendment or repeal of a District rule shall be conducted according to the provisions of chapter 120, Florida Statutes, and these rules. Rulemaking proceedings are initiated by the District on its own initiative, or on the petition of a person regulated by the District, or on the petition of a person having a substantial interest in a District rule. A proceeding shall be deemed to have been initiated upon publication of notice by the District.

Specific Authority 373.044, 373.113 F.S.

Law Implemented 120.53(1) F.S.

History--New, 9-3-81.

Formerly 16K-1.15(1),(2)

40E-1.303 Notice of Proceedings and the Proposed Rules.

(1) Except as provided in 40E-1.337, notice of its intention to adopt, amend, or repeal a rule shall be given by the District as provided in section 120.54(1), Florida Statutes. Pursuant to section 120.54(1)(a), Florida Statutes, the District shall identify the classes of persons required to be notified and mail them a copy of the notice.

(2) Upon the publication of notice of the District's intention to adopt, amend or repeal a rule, a draft of the proposed rule shall be made available to the public.

Specific Authority: 373.044, 373.113 F.S.

Law Implemented 120.53(1) F.S.

History--New, 9-3-81.

40E-1.307 Content of Notice.

The notice must conform to the content requirements of subsection 120.54(1), Florida Statutes; provided however, the text of the proposed rule may be included in the notice.

Specific Authority: 373.044, 373.113 F.S.

Law Implemented 120.54(1) F.S.

History--New, 9-3-81.

40E-1.311 Petitions to Initiate Rulemaking Proceedings.

(1) All petitions for the initiation of rulemaking proceedings pursuant to subsection 120.54(5), Florida Statutes, must contain the name and address of the petitioner, specific reasons for adoption, amendment or repeal, the specific action requested, the date submitted, and shall specify the text of the proposed rule.

(2) Any interested person may file a statement in support of or in opposition to any petition for the initiation of rulemaking proceedings. The interested person shall furnish the petitioner with a copy upon filing of the statement.

(3) Any interested person may submit a reply to the statement in subsection (2) prior to Board action. The interested person shall furnish the petitioner and the person filing under subsection (2) with a copy upon filing of the reply.

Specific Authority: 373.044, 373.113 F.S.

Law Implemented 120.54(5) F.S.

History--New, 9-3-81.

40E-1.313 District Action on Petitions to Initiate Rulemaking Proceedings.

(1) Upon receipt of any petition for the initiation of rulemaking pursuant to subsection 120.54(5), Florida Statutes, the District shall assign the petition an identification number. The District shall publish notice of receipt and disposition in the Florida Administrative Weekly and shall send a copy of the petition to the Administrative Procedures Committee.

(2) If the District determines that the petitioner is not regulated by the District, or does not have a substantial interest in the District rule, or does not have the interest as

stated in the Petition, the District may forthwith deny the petition, and shall notify the petitioner in writing of the particular reasons for the denial. If the District determines that the petition should be granted, the District shall issue appropriate notice and initiate such District action. If the District determines that rulemaking should not be initiated, a written statement setting forth the particular reasons for such determination shall be provided to the petitioner.

Specific Authority: 373.044, 373.113 F.S.

Law Implemented 120.54(5) F.S.

History--New, 9-3-81.

40E-1.327 Rulemaking Materials.

After the publication of notice initiating rulemaking, the District shall make available for public inspection and shall provide upon request copies of the following materials:

(1) The text of the proposed rule or any amendment or repeal of any existing rule;

(2) A detailed written statement justifying the proposed rule;

(3) A copy of the economic impact statement required by section 120.54, Florida Statutes;

(4) A statement comparing the proposed rule with any applicable federal rules, regulations or standards, or a statement that no comparable federal standards exist;

(5) The published notice.

Specific Authority: 373.044, 373.113 F.S.

Law Implemented 120.54 F.S.

History--New, 9-3-81.

40E-1.330 Rulemaking Proceedings - No Hearing.

When no hearing is requested, and when the District chooses not to initiate a hearing on its own, the Board may direct that the proposed rule be filed with the Department of State no less than 21 days following notice. Such direction may be given by the Board prior to initiating the proposed rule in the event no hearing is requested, or may be given after allowing 14 days in which affected persons may request a hearing.

Specific Authority: 373.044, 373.113 F.S.

Law Implemented 120.54(3) F.S.

History--New, 9-3-81.

40E-1.331 Rulemaking Proceedings - Hearing.

(1) If the proposed rule does not relate exclusively to organization, practice or procedure, the District shall provide, upon request, a public hearing for presentation of evidence, argument and oral statements, within reasonable conditions and limitations imposed by the District to avoid duplication, irrelevant comment, unnecessary delay or disruption of the proceeding. Written statements may be submitted to the District following the hearing by any person, and may be considered and made a part of the record if authorized by the District.

(2) A public hearing shall be held if an affected person requests a hearing within 14 days after the date of publication of the notice. The District may decide on its own initiative to hold a public hearing and shall include an announcement of this fact in its published notice.

(3) The District shall prepare an agenda for the hearing that provides affected persons with sufficient time to present evidence, oral statements, and other information.

(4) The District may take official recognition of any material that is of common and general knowledge, authoritatively well settled and free from uncertainty, and within the District's responsibilities. If material is officially recognized by the District it is to be admissible as true without the necessity of the offering party presenting evidence. This material shall be part of the record and all affected persons shall be given a reasonable opportunity to examine and offer evidence and argument in opposition.

(5) Upon request of any affected person, the District shall cause to be made a transcript of the proceeding and copies of the transcript of the proceeding shall be available to the public. Cost of preparing the transcript and having the proceeding recorded shall be paid by the requesting person. A copy of the transcript shall be available to the public at cost.

(6) The Board, any member thereof or any person designated by the Board may preside at a hearing held pursuant to subsection 120.54(3), Florida Statutes. If requested by the Board following the hearing, the person presiding shall provide a detailed statement of any changes which will be recommended in the proposed rule to any person who requests it at the hearing, and shall

prepare a summary of such hearing and recommendations for changes in the proposed rule to the Board for final action.
Specific Authority: 373.044, 373.113 F.S.
Law Implemented 120.54(3), (6) F.S.
History--New, 9-3-81.

40E-1.335 Incorporation by Reference.

Any rule, standard, specification or similar material which is generally available to affected persons may be incorporated in a rule, by reference, in the manner adopted by rule by the Department of State.
Specific Authority: 373.044, 373.113 F.S.
Law Implemented 120.53, 120.54 F.S.
History--New, 9-3-81.

40E-1.337 Emergency Rule Adoption.

(1) The District may adopt an emergency rule, if:

(a) The District finds that immediate danger to the public health, safety and welfare exists which requires immediate District action; and

(b) The District complies with the requirements of section 120.54(9)(a) 3., Florida Statutes.

(2) Unless it defeats the purpose of an emergency rule, the District shall notify major wire services and notice all affected persons before adopting an emergency rule. When time permits, the District shall, upon request, allow all affected persons to present testimony, evidence, and submit written statements.

(3) Upon the request of an affected person, the District shall cause a transcript to be made of the proceeding and shall compile a record, consisting of the transcript, copies of the notice and statement filed with the Department of State pursuant to subsection (1) above, and any other matter or information considered by the District in adopting the emergency rule. Cost of preparing the transcript shall be paid by the requesting person. In any event, a recording shall be made of the proceeding.

(4) Notwithstanding subsection (2) and (3) above, the District may use any procedure which is fair under the circumstances in the adoption of an emergency rule as long as it protects the public interest and otherwise complies with applicable statutory provisions.

Specific Authority: 373.044, 373.113 F.S.
Law Implemented 120.53(1), 120.54(9) F.S.
History--New, 9-3-81.

PART IV DECLARATORY STATEMENTS

40E-1.401 General.

(1) Any person may seek a declaratory statement as to the applicability of a specific statutory provision or of any rule or order of the District as it applies to the Petitioner in his particular set of circumstances only. The District shall give notice of each petition, briefly stating the question presented, in the Florida Administrative Weekly, and shall similarly give notice of the disposition of each petition, briefly explaining the District's response. Copies of each petition and disposition thereof shall also be furnished to the Administrative Procedures Committee.

(2) The petition seeking a declaratory statement shall be filed in writing with the District and shall provide substantially the following information:

(a) The name, address and signature of the petitioner.

(b) The District rule, order or statutory provision on which the declaratory statement is sought.

(c) A description of how the rule, order or statute may or does affect the interests of petitioner in his particular set of circumstances only.

(d) Other information which the petitioner contends is material.

Specific Authority 373.044, 373.113 F.S.
Law Implemented 120.565, 120.73 F.S.
History--New, 9-3-81.
Formerly 16K-1.13(1)

40E-1.405 Purpose and Use of Declaratory Statement.

A declaratory statement is a means for resolving a controversy or answering questions or doubts concerning the applicability of any statutory provision, rule or order as it does, or may, apply to petitioner in his particular circumstances only. The potential impact upon petitioner's interests must be alleged in order for petitioner to show the existence of a controversy, question or doubt.

Specific Authority 373.044, 373.113 F.S.
Law Implemented 120.565 F.S.
History--New, 9-3-81.

40E-1.407 District Disposition.

(1) The District may at its discretion hold a hearing to dispose of a petition submitted pursuant to section 120.565, Florida Statutes, or may submit the petition to the Board for final disposition with appropriate recommendations of District staff and informal argument by interested parties. If a hearing is held it shall be conducted pursuant to section 120.57 Florida Statutes on an expedited basis, or as otherwise agreed upon by the District and the parties.

(2) A District order shall be rendered as prescribed in section 120.59 Florida Statutes. Specific Authority 373.044, 373.113 F.S.
Law Implemented 120.565 F.S.
History--New, 9-3-81.
Formerly 16K-1.13(2)(3)

PART V DECISIONS DETERMINING SUBSTANTIAL INTERESTS

SUB PART A GENERAL PROVISIONS

40E-1.501 Scope of Part V.

This part shall apply in all proceedings in which substantial interests of a party are determined by the District, and shall be construed to secure the just, speedy, and inexpensive determination of every proceeding. Specifically, this part applies to all proceedings under section 120.57 Florida Statutes, as well as those initiated under sections 120.60 Florida Statutes, or 120.54(16) Florida Statutes, which are required to be conducted in accordance with section 120.57 F.S. This part does not apply to District investigations.

Specific Authority 373.044, 373.113 F.S.
Law Implemented 120.53(1), 120.54(16), 120.57, 120.60(1) F.S.
History--New, 9-3-81.

40E-1.503 Computation of Time.

In computing any period of time prescribed or allowed by chapter 40E, by order of a presiding officer, or by any applicable

statute, the day of the act from which the designated period of time begins to run shall not be included. The last day of the period shall be included unless it is a Saturday, Sunday or legal holiday in which event the period shall run until the end of the next day which is neither a Saturday, Sunday or legal holiday. As used in these rules, legal holiday means those days designated in section 110.117 Florida Statutes, and any other day the District's offices are closed. Three days shall be added to prescribed time limits when service is made by mail.

Specific Authority 373.044, 373.113 F.S.
Law Implemented 120.57 F.S.
History--New, 9-3-81.

40E-1.504 Parties.

Parties in any proceeding conducted in accordance with section 120.57, Florida Statutes, are petitioners, respondents, or intervenors. Parties shall be entitled to receive copies of all pleadings, motions, notices, orders and other matters filed in a proceeding, and shall be entitled to all rights afforded under chapter 120, Florida Statutes. For the purposes of the rules in this chapter, the term "party" may include the District.

Specific Authority 373.044, 373.113 F.S.
Law Implemented 120.57 F.S.
History--New, 9-3-81.
Formerly 16K-1.111(1)-(4)

40E-1.505 Appearances; Criteria for Authorized Representation.

(1) A party may be represented by an attorney or other qualified representative or may appear on his own behalf.

(2) If a party is not represented by an attorney, or does not appear on his own behalf, the presiding officer, as early as possible in the proceedings, but prior to the final hearing, shall make diligent inquiry of the party and the representative under oath, to assure that the representative is qualified to appear in the agency proceeding and capable of preserving the rights of the party. This inquiry shall include consideration of the nature of the legal skills, knowledge and experience of the representative, including the representative's ability to apply concepts relating to the rules of evidence and hearsay; the ability of the representative to apply and interpret chapter 120, Florida

Statutes, including section 120.57, Florida Statutes, and chapter 40E-1; the representative's ability to identify the issues in the proceeding; the representative's knowledge of and experience with the statutes and rules at issue in the proceeding; the nature and complexity of the factual and legal issues present in the proceeding, and the representative's experience in dealing with these issues; the representative's interest in the proceeding; whether the party is aware of the nature and extent of the representation which the representative can provide; whether the party is aware of the right to be represented by an attorney, and any other matter deemed relevant by the presiding officer. The presiding officer shall authorize the representative to appear in the proceeding if the presiding officer is reasonably assured that the representative is capable of providing competent, responsible and ethical representation of the party's substantial interests in a manner which will not impair the fairness of the proceeding or the correctness of the action to be taken. The presiding officer may reconsider a ruling on this issue at any time during the proceedings for specific cause relative to the criteria established by this subsection.

(3) All attorneys and qualified representatives appearing in proceedings shall conform to the standards of ethical conduct required of attorneys before the courts of the State of Florida as specified in the Florida Code of Professional Responsibility, and presiding officers shall require such compliance. Failure to comply shall authorize presiding officers to disqualify any attorneys or qualified representatives appearing before them in a proceeding.

(4) An attorney or other qualified representative (approved by the presiding officer) for any party to a proceeding who has filed an initial pleading or notice of appearance for that party shall remain the attorney or representative of record and shall receive pleadings until a motion to withdraw has been served on the represented party and approved by the presiding officer, or until disqualified by the presiding officer.

(5) Notice of appearance by any successor or associated attorney or other qualified representative shall be filed prior to the filing of any pleading with, or appearance before, the agency or presiding officer.

Specific Authority 373.044, 373.113 F.S.
Law Implemented 120.53(1), 120.62(2) F.S.
History--New, 9-3-81.
Formerly 16K-1.111(5)

40E-1.506 Consolidation.

If there are separate matters before the presiding officer which involve similar issues of law or fact, or identical parties, the matters may be consolidated if it appears that consolidation would promote the just, speedy, and inexpensive resolution of the proceedings, and would not unduly prejudice the rights of a party. Any party to a proceeding may request that it be consolidated with other proceedings, or the presiding officer may on his own initiative order separate proceedings to be consolidated. Specific Authority 373.044, 373.113 F.S.
Law Implemented 120.57 F.S.
History--New, 9-3-81.

40E-1.507 Joinder of Parties.

If it appears that the determination of the rights of parties in a proceeding will necessarily involve a determination of the substantial interests of persons who are not parties, the presiding officer may, upon motion of a party, or upon his own initiative enter an order requiring that the absent person be notified of the proceeding and be given an opportunity to be joined as a party of record. Specific Authority 373.044, 373.113 F.S.
Law Implemented 120.53(1), 120.57 F.S.
History--New, 9-3-81.

40E-1.508 Disqualification.

Unless good cause is shown, all motions for disqualification of a presiding officer should be made within 20 days of the date of designation of the presiding officer. Specific Authority 373.044, 373.113 F.S.
Law Implemented 120.53(1), 120.57, 120.71 F.S.
History--New, 9-3-81.

40E-1.509 Filing and Service of Papers.

(1) Unless the presiding officer otherwise orders, every pleading and every other paper filed in a proceeding shall be filed with the District Clerk and, except applications for witness subpoenas, shall be served on each party.

(e) A statement of all disputed issues of material fact. If there are none, the petition must so indicate;

(f) A concise statement of the ultimate facts which petitioner believes entitle petitioner to the relief sought as well as the rules and statutes which support petitioner's claim for relief;

(g) A demand for the relief to which the petitioner deems himself entitled; and

(h) Other information which the petitioner contends is material.

(3) Upon receipt of a petition for formal proceedings, the District shall review the petition for the degree of compliance with subsection (2) and shall accept those petitions in substantial compliance therewith which have been timely filed and which state a dispute which is within the jurisdiction of the District to resolve. If accepted, the District shall designate the presiding officer. The District shall promptly give written notice to all parties of the action taken on the petition, and shall state with particularity its reasons therefor.

(4) If the District designates a Hearing Officer assigned by the Division of Administrative Hearings as the presiding officer, the District Clerk shall forward the petition and all materials filed with the District to the Division of Administrative Hearings, and shall notify all parties of its action.

Specific Authority 373.044, 373.113 F.S.

Law Implemented 120.53(1), 120.57 F.S.

History--New, 9-3-81.

Formerly 16K-1.09(1), 16K-1.112(1) through (3), 16K-1.12

40E-1.522 Amendment of Petitions.

The petitioner may amend the petition prior to the District's designating the presiding officer by filing and serving an amended petition in the manner prescribed for filing and serving an original petition. The petitioner may amend its petition after the designation of the presiding officer only upon order of the presiding officer.

Specific Authority 373.044, 373.113 F.S.

Law Implemented 120.53(1), 120.57 F.S.

History--New, 9-3-81.

40E-1.523 Answer.

(1) The respondent shall file an answer to the petition within 20 days of service of the petition. The answer shall admit or deny all of the allegations of the petition, or state that respondent is without knowledge, which shall be deemed to be a denial.

(2) Intervenors shall file an answer to the petition in conjunction with the filing of the petition to intervene in the proceedings.

Specific Authority 373.044, 373.113 F.S.

Law Implemented 120.53(1), 120.57 F.S.

History--New, 9-3-81.

Formerly 16K-1.112(5)

40E-1.524 Motions.

A party may make any motion allowed under the Florida Rules of Civil Procedure in accordance with the procedures specified therein, except as provided in these rules. All motions shall be in writing unless made on the record during a hearing, and shall fully state the action requested and the grounds relied upon. The original written motion shall be filed with the presiding officer. The presiding officer shall conduct such proceedings and make such orders as are deemed necessary to dispose of issues raised by motions. Every written motion may be accompanied by, or included in, a written memorandum stating the grounds upon which the motion is based. Other parties to a proceeding may, within seven days of service of a written motion, file written memoranda in opposition. The presiding officer may hear argument on a motion by telephone conference call.

Specific Authority 373.044, 373.113 F.S.

Law Implemented 120.53(1), 120.57 F.S.

History--New, 9-3-81.

40E-1.525 Motions in Opposition to Petition.

Motions in opposition to a petition, which may be filed by any party, include motions to dismiss, to strike, and for more definite statement, and shall be filed within 20 days of service of the petition. When the presiding officer grants a motion to dismiss a petition, the reasons therefor shall be stated in the recommended order.

Specific Authority 373.044, 373.113 F.S.

Law Implemented 120.53(1), 120.57 F.S.

History--New, 9-3-81.

Service shall be made upon the party or his representative by delivering a copy or by mailing it to the last known address.

(2) Filing and service of the initial petition is deemed complete upon receipt of the original documents by the District Clerk. Service of all other authorized pleadings is deemed complete upon mailing.

Specific Authority 373.044, 373.113 F.S.

Law Implemented 120.53(1), 120.57 F.S.

History--New, 9-3-81.

Formerly 16K-1.112(4)

40E-1.510 District Investigations and Probable Cause Determinations.

(1) This chapter does not apply to District investigations or to determinations of probable cause preliminary to District action.

(2) Upon receipt of a complaint filed pursuant to rule 40E-1.605, the District shall conduct an investigation and make a determination of probable cause. The District may conduct other investigations and make other probable cause determinations as are authorized or required by law.

(3) An investigation or determination of probable cause is a non-adversary executive function to discover or procure evidence as part of the fact finding function of the District. The District need not have an administrative complaint pending to conduct an investigation or make such a determination.

Specific Authority: 373.044, 373.113 F.S.

Law Implemented 120.53(1), 120.57(4), 120.61, 373.219(2) F.S.

History--New, 9-3-81.

Formerly 16K-1.09(2), 16K-2.03(3)

40E-1.511 Point of Entry into Proceedings.

Unless otherwise provided by law or District rule:

(1) Persons requesting a hearing on a District decision which does or may determine their substantial interest shall file a petition with the District within 14 days of receipt of written notice of the decision, or within 14 days of receipt of written notice of intent to render such decision. Whenever possible, the District shall issue a written notice of intent to render a decision prior to the decision and allow persons who may be substantially affected thereby 14 days from receipt in which to request a

hearing. The notice shall state the time limit for requesting a hearing and shall reference this chapter.

(2) Any person who receives written notice of a District decision or who receives written notice of intent to render a decision and who fails to request a hearing within 14 days, shall have waived his right subsequently to request a hearing on such matters.

(3) The District may publish notice of its decision, or of its intent to render a decision in the Florida Administrative Weekly, newspapers of general circulation in the area affected by such decisions and may also, where appropriate, mail copies of its notice to applicants, competitors, and interested groups. Such action by the District may be used in establishing petitioner's date of receiving notice.

(4) The provisions of this rule shall not apply to proceedings governed by rule 40E-1.603.

Specific Authority 373.044, 373.113 F.S.

Law Implemented 120.53(1), 120.57 F.S.

History--New, 9-3-81.

SUB PART B FORMAL PROCEEDINGS

40E-1.521 Initiation of Formal Proceedings.

(1) Initiation of formal proceedings shall be made by petition to the District. The term petition as used herein includes any application or other document which expresses a request for formal proceedings. Each petition should be printed, typewritten or otherwise duplicated in legible form on white paper of standard legal size. Unless printed, the impression shall be on one side of the paper only and lines shall be double-spaced and indented.

(2) All petitions filed under these rules shall contain:

(a) The name and address of the District and the District's file or identification number, if known;

(b) The name and address of the petitioner or petitioners;

(c) An explanation of how each petitioner's substantial interests will be affected by the District's determination;

(d) A statement of when and how petitioner received notice of the District's decision or intent to render a decision;

40E-1.526 Prehearing Conferences.

The presiding officer may conduct or request the parties to have one or more prehearing conferences for the purpose of hearing arguments on pending motions, clarifying and simplifying issues, discussing the possibilities of settlement of the issues, examining exhibits and documents, exchanging names and addresses of witnesses, and resolving other procedural matters.

Specific Authority 373.044, 373.113 F.S.

Law Implemented 120.53(1), 120.57 F.S.

History--New, 9-3-81.

40E-1.527 Intervention.

Persons other than the original parties to a pending proceeding who have a substantial interest in the proceeding, and who desire to become parties may petition the presiding officer for leave to intervene. Petitions for leave to intervene must be filed at least 30 days before the final hearing, and shall be in conformance with rule 40E-1.521. The petition shall also include allegations sufficient to demonstrate that the intervenor is entitled to participate in the proceeding as a matter of constitutional or statutory right, or pursuant to District rule, or that the substantial interests of the intervenor are subject to determination or will be affected through the proceeding.

Specific Authority 373.044, 373.113 F.S.

Law Implemented 120.53(1), 120.57 F.S.

History--New, 9-3-81.

Formerly 16K-1.111(2)(e)

40E-1.528 Discovery.

Parties may obtain discovery through the means and in the manner provided in rules 1.280 through 1.400, Florida Rules of Civil Procedure.. The presiding officer may issue appropriate orders to effectuate the purposes of discovery and to prevent delay, including the entry of a recommended order of default pursuant to rule 40E-1.531.

Specific Authority 373.044, 373.113 F.S.

Law Implemented 120.53(1), 120.57 F.S.

History--New, 9-3-81.

Formerly 16K-1.11(8),(9)

40E-1.529 Notice of Hearing.

The District, with the concurrence of the presiding officer, shall set the time and place for all hearings. The presiding officer shall issue and serve written notice thereof by U.S. mail on all parties of record. No less than 14 days notice shall be given for the final hearing on the merits of the petition unless otherwise agreed by the parties. The notice of hearing shall contain the statements set out in subparagraph 120.57(1)(b) 2., Florida Statutes.

Specific Authority 373.044, 373.113 F.S.

Law Implemented 120.53(1), 120.57 F.S.

History--New, 9-3-81.

40E-1.530 Continuances.

The presiding officer may in his or her discretion grant a continuance of a hearing for good cause shown, or upon stipulation of all parties. Requests for continuance shall be made in writing. Except in cases of extreme emergency, requests for continuance must be made at least five days prior to the date noticed for the hearing.

Specific Authority 373.044, 373.113 F.S.

Law Implemented 120.53(1), 120.57, F.S.

History--New, 9-3-81.

Formerly 16K-1.11(7)

40E-1.531 Dismissal and Default.

(1) The failure or refusal of a party to comply with any lawful order may be cause for dismissing the petition, or for entry of a default order.

(2) The presiding officer shall serve upon all parties written notice of any recommended order entered pursuant to subsection (1). The party against whom such an order is entered may, not later than 15 days after service of the notice, file a motion requesting that the recommendation for default or dismissal be set aside and stating the ground relied upon. If a default is entered against the party who has the burden of proof in the proceeding, the proceeding will be dismissed as to that party. If the default is entered against a party who does not have the burden of proof, the party in default shall not be allowed to cross-examine witnesses, or to otherwise participate in the proceeding as a party. If the defaulting party is the only

party in opposition to the proposed agency action, the proceeding shall be terminated. Specific Authority 373.044, 373.113 F.S. Law Implemented 120.53(1), 120.57 F.S. History--New, 9-3-81.

40E-1.541 Subpoenas.

(1) Subpoenas may be issued by the District or by the presiding officer. Subpoena forms shall be supplied by the District or the presiding officer.

(2) Subpoenas requiring the attendance of witnesses or production of records, files, and memoranda from any place in the state, at any designated place of hearing before the presiding officer, for the purpose of taking the testimony of such witness or inspection of documents, shall be issued upon written application of any party. The application for such subpoena shall state the name and address of the witness for whom the subpoena is to be issued, and the time and place for the witness to appear.

(3) Any party or person against whom a subpoena is directed may file a motion to quash or limit the subpoena which shall set forth the grounds relied upon and shall be filed within seven days of receipt.

(4) A subpoena may be served by any person authorized by law to serve process or by any person who is not a party and who is of majority age. Service shall be made by delivering a copy thereof to the person named in the subpoena. Proof of such service shall be made by affidavit of the person making service if not served by an officer authorized by law to do so. Specific Authority 373.044, 373.113 F.S. Law Implemented 120.53(1), 120.57, 120.58(1) F.S. History--New, 9-3-81. Formerly 16K-1.11(9)

40E-1.542 Witness Fees.

Witness fees shall be paid by the party at whose instance the witness is summoned, and shall be tendered at the time of service of a subpoena. Except in the case of state employees, the fees allowed shall be the same as those allowed by the circuit courts of the state. State employees shall be entitled to compensation at the rate provided under section 112.061 Florida Statutes. This section shall not limit the fees of expert witnesses.

Specific Authority 373.044, 373.113 F.S.

Law Implemented 120.53(1), 120.57 F.S. History--New, 9-3-81.

40E-1.543 Order of Presentation.

The presentation of evidence at a subsection 120.57(1) Florida Statutes hearing shall be in the following manner:

(1) When the petition concerns the grant or denial of an application:

- (a) Applicant
- (b) Intervenors who are proponents of the application
- (c) District
- (d) Intervenors who are opposed to the application

(2) When the initial pleading is either a complaint initiated by the Executive Director pursuant to section 373.119, Florida Statutes, or a notice of intention to revoke, suspend or modify a permit pursuant to rule 40E-1.609:

- (a) District
- (b) Intervenors in support of District
- (c) Respondents
- (d) Intervenors in support of respondents

(3) When the initial pleading is a complaint pursuant to rule 40E-1.605:

- (a) Complainants
- (b) Intervenors in support of complainants
- (c) Defendants
- (d) Intervenors in support of defendants
- (e) District

(4) For all other proceedings the order of presentation shall be determined by the presiding officer.

(5) Opening and closing statements shall be presented in the same order as evidence, with each party allotted an equal amount of time by the presiding officer. Each party may reserve any portion of the time allotted for closing argument for rebuttal.

(6) The presiding officer may vary the order of presentation for good cause shown.

Specific Authority 373.044, 373.113 F.S. Law Implemented 120.53(1), 120.57 History--New, 9-3-81. Formerly 16K-1.11(3),(4),(5)

40E-1.544 Burden of Proof.

Unless otherwise provided by District rule, the burden of proof in all proceedings shall be on the party asserting the affirmative of the issue.

Specific Authority 373.044, 373.113 F.S.
Law Implemented 120.53(1), 120.57, 120.58 F.S.
History--New, 9-3-81.

40E-1.545 Witnesses.

(1) All witnesses shall be sworn and subject to examination and cross-examination.

(2) The presiding officer may allow members of the general public to appear as witnesses at a hearing, and to present oral or written communications without the necessity of being a party. The presiding officer may set fair and reasonable conditions on such appearances, and the communications shall be subject to cross-examination, challenge and rebuttal.

Specific Authority 373.044, 373.113 F.S.
Law Implemented 120.53(1), 120.57 F.S.
History--New, 9-3-81.
Formerly 16K-1.11(2), (6)

40E-1.546 Evidence.

(1) Oral evidence shall be taken only on oath or affirmation.

(2) Each party shall have the right: to present evidence relevant to the issues; to cross-examine opposing witnesses; to impeach any witness regardless of which party first called the witness to testify; and to rebut the evidence presented against it.

(3) Any relevant evidence shall be admitted if it is the sort of evidence on which reasonably prudent persons are accustomed to rely in the conduct of their affairs. Hearsay evidence may be used to supplement or explain other evidence, but shall not be sufficient in itself to support a finding of fact unless it would be admissible over objection in civil actions. The rules of privilege shall be effective to the same extent that they are now or hereafter may be recognized in civil actions. Irrelevant and unduly repetitious evidence shall be excluded.

Specific Authority 373.044, 373.113 F.S.
Law Implemented 120.53(1), 120.57, 120.58 F.S.
History--New, 9-3-81.

40E-1.547 Recordation.

The District shall have the responsibility of preserving the testimony at final hearings. Proceedings shall be reported by a certified court reporter or by recording instruments. Any party to a hearing may provide a certified court reporter at its own expense if the District does not. The presiding officer may in his or her discretion provide a certified court reporter. At hearings during which the services of a court reporter have been retained, any party who wishes a written transcript of the testimony shall order the same at its own expense. If a court reporter records the proceedings, the recordation shall become the official transcript.

Specific Authority 373.044, 373.113 F.S.
Law Implemented 120.53(1), 120.57 F.S.
History--New, 9-3-81.

40E-1.548 Venue.

Hearings conducted pursuant to this part shall be held at the place most convenient to all parties as determined by the presiding officer.
Specific Authority 373.044, 373.113 F.S.
Law Implemented 120.53(1), 120.57 F.S.
History--New, 9-3-81.

40E-1.561 Post-Hearing Memoranda.

All parties may submit proposed findings of fact, conclusions of law, and recommended orders, or legal briefs on the issues within 15 days of the final hearing or such other time as may be designated by the presiding officer.

Specific Authority 373.044, 373.113 F.S.
Law Implemented 120.53(1), 120.57 F.S.
History--New, 9-3-81.

40E-1.562 Recommended Order.

(1) If a hearing is conducted by other than the Board, the presiding officer shall, within 30 days after the hearing, receipt of the hearing transcript, or receipt of proposed findings of fact and conclusions of law, whichever is later, file a recommended order which shall include a caption, time and place of hearing, appearances entered at the hearing, statement of the issues, findings of fact and conclusions of law, separately stated, and recommendation of final District action.

(2) If a party submits proposed findings of fact to the presiding officer, the recommended order shall include an explicit ruling on each proposed finding of fact as well as a brief statement of grounds for rejecting the proposed finding of fact; provided however, the presiding officer is not required to make explicit rulings on subordinate, cumulative, immaterial or unnecessary proposed facts and such proposed facts may be rejected in the recommended order by simple statement that they are irrelevant or immaterial.

Specific Authority 373.044, 373.113 F.S.
Law Implemented 120.53(1), 120.57, 120.58(1) F.S.
History--New, 9-3-81.
Formerly 16K-1.11(10)

40E-1.564 Exceptions to Recommended Order.

(1) Within 15 days of the date of the recommended order, parties may file exceptions to it with the District, which are deemed filed upon receipt by the District Clerk.

(2) Exceptions to findings of fact or conclusions of law which are based upon facts not found by the hearing officer shall be accompanied by a complete transcript provided at the expense of the party filing exceptions, provided however, that the parties may stipulate that a lesser portion of the transcript be filed. The transcript shall be filed within 20 days of the date of the recommended order.

(3) Each exception shall state with particularity the finding of fact, conclusion of law, or recommendation which is objectionable and the reasons therefor. Specific reference must be made to those portions of the transcript which support the exception in order for the exception to be considered.

Specific Authority 373.044, 373.113 F.S.
Law Implemented 120.53(1), 120.57 F.S.
History--New, 9-3-81.
Formerly 16K-1.11(10)

40E-1.565 Final Order.

(1) Final orders in proceedings concerning the issuance, suspension, revocation or modification of District permits pursuant to rule 40E-1.609 shall be rendered within the time prescribed by subsection 120.60(2), Florida Statutes. All other final orders shall be rendered within the time prescribed by section 120.59, Florida Statutes.

(2) The final order shall include a caption, time and place of hearing, appearances entered at the hearing, statement of issues, findings of fact, conclusions of law and statement of final District action.

(3) The recommended order shall be considered at a public meeting. This proceeding shall not be a de novo review, but shall be confined to the record submitted to the Board together with the recommended order.

(4) If a party files exceptions to a recommended order, or, for hearings conducted by the Board submits proposed findings of fact to the Board, the final order shall include an explicit ruling on each exception or proposed finding of fact as well as a brief statement of grounds for denying the exception or proposed finding of fact; provided however, the District is not required to make explicit rulings on subordinate, cumulative, immaterial or unnecessary proposed facts and such proposed facts may be rejected in the final order by simple statement that they are irrelevant or immaterial.

Specific Authority 373.044, 373.113 F.S.
Law Implemented 120.53(1), 120.57, 120.59, 120.60 F.S.
History--New, 9-3-81.
Formerly 16K-1.11(11)

SUB PART C INFORMAL PROCEEDINGS

40E-1.571 Informal Proceedings.

(1) Proceedings conducted under subsection 120.57(2), Florida Statutes, and this part shall be informal in nature and shall not involve disputed issues of material fact, unless otherwise agreed by the parties.

(2) An informal proceeding may be granted by the District upon written request submitted within 14 days after written notice of District action or receipt of written notice of intent to render a decision. The notice shall state the time limit for requesting a hearing and shall reference the District's procedural rules.

(3) If a hearing is held, the District may:

- (a) Administer oaths and affirmations;
- (b) Rule upon offers of proof and receive relevant evidence;
- (c) Regulate the course of the hearing;

(d) Enter any order to carry out the purposes of chapter 120, Florida Statutes; and

(e) Make or receive offers of settlement, stipulation, and adjustment.
Specific Authority 373.044, 373.113 F.S.
Law Implemented 120.53(1), 120.57(2) F.S.
History--New, 9-3-81.

40E-1.572 Submission of Evidence.

(1) Within 30 days of commencing the proceeding, the District shall provide all affected persons with an opportunity to submit written statements or other pleadings as provided in subparagraph 120.57(2)(a)2., Florida Statutes.

(2) The affected persons shall be given 15 days to respond to evidence submitted pursuant to subsection (1).
Specific Authority 373.044, 373.113 F.S.
Law Implemented 120.53(1), 120.57(2) F.S.
History--New, 9-3-81.

40E-1.573 Final Order.

The final order shall be issued in compliance with section 120.59, Florida Statutes.
Specific Authority 373.044, 373.113 F.S.
Law Implemented 120.53(1), 120.57(2) F.S.
History--New, 9-3-81.

PART VI PERMITS

40E-1.601 General.

All District action regarding the application for issuance, suspension, annulment, withdrawal and revocation of permits shall be governed by sections 120.57, and 120.60, Florida Statutes, and the rules in this chapter.
Specific Authority 373.044, 373.113 F.S.
Law Implemented 120.53(1), 120.57, 120.60, 373.085, 373.116, 373.119, 373.175, 373.229, 373.239, 373.243, 373.246, 373.413, 373.416, 373.429, 373.433, 373.436, 373.439 F.S.
History--New, 9-3-81.

40E-1.602 Permits Required.

Unless expressly exempt by law or District rule the following permits must be obtained from the District prior to commencement of the permitted activity:

(1) A water use permit under chapter 40E-2 must be obtained prior to use or withdrawal of water;

(2) A surface water management permit under chapter 40E-4 must be obtained prior to construction, alteration, operation, or abandonment of any dam, impoundment, reservoir, appurtenant work or works;

(3) An artificial recharge permit under chapter 40E-5 must be obtained prior to construction of any project involving artificial recharge or the intentional introduction of water into any underground formation;

(4) A right of way occupancy permit under chapter 40E-6 must be obtained prior to connecting with, placing structures in or across, discharging into or making use of works of the District;

Specific Authority 373.044, 373.113 F.S.
Law Implemented 120.53(1), 120.57, 120.60, 373.085, 373.106, chapter 373 Parts II, and IV F.S.
History--New, 9-3-81.
Formerly 16K-1.06

40E-1.603 Permit Application Procedure; Surface Water Management and Water Use.

(1) Procedures for permit applications for surface water management and water use permits shall be in accordance with chapter 120, Florida Statutes, this rule, and the provisions of part V of these rules.

(2) Application for permit shall be:

(a) filed with the District on the appropriate form provided by the Board; and

(b) accompanied by the appropriate fee in accordance with the schedule of fees if established by the Board. The failure of any person to pay the required fee(s) shall be grounds for denial or revocation of the permit.

(3) No later than 30 days after receipt of a surface water management or water use permit application, the District shall publish notice thereof in a newspaper having general circulation as defined in chapter 50, Florida Statutes. In addition, the District shall provide a copy of the notice to any person who has filed a written request for notification of any pending applications affecting a particular designated area no earlier than six months before the date specified in the notice. Interested persons shall have the opportunity to inspect a copy of

the application and submit written comments, which shall be considered by the District if received within 20 days of the first date of publication. The District may require the person submitting comments to furnish additional information reasonably necessary to ascertain the nature of the comments. The District may consider comments received after the designated time period if proposed agency action has not been taken on the application. Upon request by the applicant, the District will provide the applicant with a copy of all comments on the application.

(4) Publication of the notice of application pursuant to subsection (3) shall constitute constructive notice of the permit application to all substantially affected persons. Persons who wish to be advised as to proposed agency action regarding the permit application and provided an opportunity to request an administrative hearing pursuant to chapter 120, Florida Statutes, shall file a written request for further notice regarding the permit application by the date specified in the notice. Notices of proposed agency action will be mailed only to persons complying with this subsection.

(5) Within 30 days after receipt of an application, the District shall notify the applicant if the application is incomplete and inform him of the additional information required to make the application complete. If additional information is not supplied within 90 days after notice by the District, the application will be denied for lack of completeness. If the application is still incomplete after additional information is provided, the District shall so notify the applicant, who shall have an additional 30 days to render the application complete or be denied for lack of completeness. An extension of time may be granted by the District upon a showing by the applicant that a good faith effort is being made to provide the additional information and that additional time is required. Denial of an application for lack of completeness is without prejudice to the applicant's right to file a new application on the same subject matter.

(6) The District shall notify the applicant of the date on which the application is declared complete. Within a reasonable time thereafter, the District shall prepare a staff report, which shall contain its recommendations regarding the subject application and which shall

constitute proposed agency action. A notice of proposed agency action together with the staff report shall be furnished to the applicant and any persons requesting the same pursuant to subsection (4). The notice shall state the District's intention to recommend that the Board approve, deny or approve with conditions, the permit application and the reasons therefor and shall specify a date for filing petitions for administrative hearing which shall not be less than 14 days after the date of mailing of the notice of proposed agency action.

(7) Substantially affected persons shall have the right to request an administrative hearing under section 120.57, Florida Statutes, by filing a petition for administrative hearing with the District Clerk by the date specified in the notice of proposed agency action. A petition for administrative hearing shall be deemed filed with the District on the date of receipt by the District Clerk and must be in substantial compliance with the provisions of rule 40E-1.521, a copy of which shall be provided with the notice. Failure to substantially comply with the provisions of rule 40E-1.521 or to timely request an administrative hearing shall constitute a waiver of the right to a section 120.57 administrative hearing.

(8) The Board shall consider the permit application at its next available regulatory meeting following the mailing of notice of proposed agency action. The permit applicant and other interested parties may appear before the Board to present informal argument in favor of or against the proposed agency action. Appearance before the Board pursuant to this subsection shall not provide a basis for appealing the decision of the Board pursuant to chapter 120, Florida Statutes.

(9) The Board may approve, reject or modify the proposed agency action, which shall constitute final agency action, except for those instances when a valid petition for administrative hearing has been timely filed. In such instances, if the dispute is not resolved to the satisfaction of the petitioner at the Board meeting pursuant to subsection (8), the Board shall defer final consideration of the matter pending the completion of the administrative hearing and the submittal of a recommended order and exceptions to that order.

(10) Applicants and other interested parties not objecting to the notice of proposed agency action should nevertheless be prepared to

defend their position regarding the permit application when it is considered by the Board for final agency action. In the event the Board takes final agency action which differs materially from the proposed agency action, the District shall mail a notice of final agency action to all persons who received a notice of proposed agency action. Substantially affected persons who failed to request a section 120.57 administrative hearing based upon the notice of proposed agency action shall have the right to request such a hearing in accordance with subsection (7).

(11) Applicants entitled to a hearing pursuant to section 120.57(1), Florida Statutes, may waive their right to such a hearing and request an informal hearing before the Board pursuant to section 120.57(2), Florida Statutes, which may be granted at the option of the District.

(12) In the event a substantially affected person fails to exhaust administrative remedies pursuant to section 120.57, Florida Statutes, in accordance with the provisions of this section, final agency action shall not be subject to judicial review regarding those matters which might have been raised in a chapter 120 administrative hearing. In addition, all findings of fact incorporated in the staff report, notice of proposed agency action and final order which might have been contested in a chapter 120 administrative hearing shall be deemed uncontested and true in any further judicial or administrative proceedings. Specific Authority 373.044, 373.113 F.S. Law Implemented 120.53(1), 120.60(2) F.S. History--New, 9-3-81. Formerly 16K-1.08(1) through (8)

40E-1.604 Bond.

(1) The Board may require the applicant for a permit to furnish a bond made payable to the District and its successors, with a reputable bonding corporation authorized to do business in this State as surety, conditioned upon full compliance with terms of the permit, including the proper construction, operation, and maintenance of the facility. The amount of the bond shall be determined by the Board.

(2) The Board may require liability insurance in such amount as the Board may determine endorsed in favor of the District or a

hold harmless agreement satisfactory to the Board, in lieu of a bond under subsection (1).

(3) The Board may require that the bond or liability insurance be maintained as a condition of the continued validity of the permit.

Specific Authority 373.044, 373.113 F.S. Law Implemented 373.085, 373.103, 373.219, 373.413, 373.416 F.S. History--New, 9-3-81. Formerly 16K-1.061

40E-1.605 Complaints.

(1) Any person may file a written complaint with the District alleging that a person is in violation of any of the provisions of chapter 373, Florida Statutes, the rules promulgated thereunder or an order issued pursuant thereto, or that a lawfully issued District permit is causing a public or private nuisance.

(2) The complaint shall specify to the best of complainant's knowledge the identity of the alleged violator, the location and nature of the alleged violation, and any additional information deemed relevant or material by the complainant. The complaint must be signed by the complainant or his agent and contain an address or phone number where complainant can be reached. The District may require complainant to furnish any additional information reasonably necessary to aid in investigating the complaint. Specific Authority 120.53(1), 120.54(10), 373.044, 373.113, F.S. Law Implemented 373.219(2), 373.229(2), 373.429 F.S. History--New, 9-3-81. Formerly 16K-1.09

40E-1.608 Denial of Permit.

(1) Unless the District has already held a hearing on the application for a permit, the District shall inform the individual or entity submitting an application of the right to a hearing on the denial of the application, unless the application form contained a clear statement of such right accruing in the event of denial.

(2) The District shall set forth in writing the grounds or basis for denial of a permit.

(3) Any hearing on the denial of a permit shall be conducted in accordance with section 120.57 Florida Statutes, and unless otherwise provided by law the applicant shall have the burden of establishing entitlement to the permit.

Specific Authority 373.044, 373.113 F.S.

Law Implemented 120.60 F.S.

History--New, 9-3-81.

40E-1.609 Suspension, Revocation and Modification of District Permits.

(1) The District may suspend or revoke a permit, in whole or in part, when it determines that the permittee or his agent has:

(a) Submitted false or inaccurate information on an application or operational report;

(b) Violated chapter 373, Florida Statutes, and the rules promulgated thereunder, or any other provision of Florida law related to the operations of the District;

(c) Failed to comply with an Administrative Order issued pursuant to section 373.119, Florida Statutes;

(d) Violated a condition of the permit;

(e) Failed to permit inspection of the subject property;

(2) The District may revoke a permit or modify its terms and conditions when it determines that such action is necessary to protect the public health, safety and welfare, prevent a public or private nuisance, or when the continued utilization of the permit becomes inconsistent with the objectives of the District. In such instances, due consideration shall be given to the extent to which the permittee has detrimentally relied upon the permit.

(3) The Executive Director shall initiate proceedings to suspend, revoke, or modify a permit or other authorization by serving a Notice of Intention upon the permittee by certified mail or by service of process, which shall state the nature of the intended action, and those findings of fact and conclusions of law which support the action.

(4) The permittee may request an administrative hearing pursuant to section 120.57, Florida Statutes, by filing a Petition for Administrative Hearing with the District within 14 days of the date of receipt of the Notice of Intention. Petitions are deemed filed

upon receipt by the District Clerk. The Petition must contain the following information:

(a) Name and address of the party making request.

(b) A reference to the case number on the Notice of Intention.

(c) A statement as to whether the party is requesting a formal section 120.57(1) Florida Statutes, or informal section 120.57(2) Florida Statutes, hearing.

(d) When a formal hearing is requested, the permittee shall admit or deny each finding of fact contained in the Notice of Intention, or state that the permittee is without knowledge as to the same, which shall be deemed to be a denial. The District may decline to hold a formal hearing when there are no disputed issues of material fact.

(5) Failure to comply with the provisions of subsection (4) shall constitute a waiver of the right to a section 120.57 Florida Statutes, administrative hearing. In such event, all findings of fact and conclusions of law contained in the Notice of Intention shall be deemed uncontested and true in any further judicial or administrative proceedings.

(6) The Board shall consider the Notice of Intention for which a valid petition for a section 120.57 Florida Statutes hearing has not been timely filed at the next available regulatory meeting following the expiration of the 14 day time period mentioned in subsection (4). The permittee or other affected persons may state their objections to or comment in favor of the intended action, but the appearance shall not constitute grounds for an administrative appeal pursuant to chapter 120, Florida Statutes.

(7) When a valid petition for administrative hearing has been filed, the Board action shall defer consideration of the matter pending the completion of the administrative hearing and the submittal of a recommended order, and any exceptions to that order. Provided however, that the permittee may appear before the next available meeting of the Board to discuss the intended action by submitting a written request therefor within the time period mentioned in subsection (4). The Board may cancel the intended action or make such modifications as are deemed appropriate at that time. An informal appearance before the Board pursuant to this subsection shall not constitute a waiver of the right to a formal administrative hearing.

(8) In the case of an emergency, the Executive Director may enter an order which suspends or revokes a permit, in whole or in part, or modifies the terms and conditions of the permit. The permittee shall take whatever actions necessary to cause immediate compliance with the Emergency Order, but shall have the right of administrative appeal, subject to the provisions of subsections (4) through (7).
Specific Authority 373.044, 373.113 F.S.
Law Implemented 120.53(1)(b),(c), 120.60(2), 373.119, 373.429 F.S.
History--New, 9-3-81.

40E-1.611 Emergency Action.

(1) An emergency exists when immediate action is necessary to protect public health, safety or welfare; the health of animals, fish or aquatic life; the works of the District; a public water supply, or recreational, commercial, industrial, agricultural or other reasonable uses of land and water resources.

(2) Whenever an emergency exists, the Executive Director shall issue an emergency order, which shall describe the conditions which are causing the emergency, and the type of corrective action necessary to minimize or abate the emergency conditions. The order shall be delivered by service of process or by personal delivery by an agent of the District to the person, or the agent of the person responsible for causing or contributing to the emergency conditions.

(3) The person or his agent shall take whatever action necessary to cause immediate compliance with the terms of the emergency order, but shall have the right to appeal the order in accordance with the provisions of rule 40E-1.609, subsections (4) through (7).

(4) When an emergency condition exists pursuant to section 373.439, Florida Statutes, the Executive Director may employ the resources of the District to take whatever remedial action necessary to alleviate the emergency condition without the issuance of an emergency order, or in the event an emergency order has been issued, after the expiration of the requisite time for compliance with that order.
Specific Authority 373.044, 373.113 F.S.
Law Implemented 120.53(1)(b),(c), 120.60(2), 373.119, 373.439 F.S.
History--New, 9-3-81.

40E-1.612 Administrative Enforcement Action.

(1) Administrative enforcement action may be taken whenever the Executive Director of the District determines or has reason to believe that a violation of the provisions of chapter 373, Florida Statutes, or any regulation promulgated thereunder, or permit or order issued pursuant thereto has occurred, is occurring, or is about to occur.

(2) The Executive Director shall serve an administrative complaint and order on the alleged violator or violators. The order shall state the findings of fact and conclusions of law which support the initiation of administrative enforcement action, the remedial or other action necessary to terminate such action, and the time period within which such remedial or other action must be taken.

(3) The respondent may request an administrative hearing under section 120.57, Florida Statutes, by filing a petition for administrative hearing with the District within 14 days of the date of receipt of the order. Petitions are deemed filed with the District on the date of receipt by the District Clerk. The petition must be in substantial compliance with the provisions of rule 40E-1.521, a copy of which shall be attached to the order. The petition shall contain allegations admitting or denying each finding of fact in the order or state that respondent is without knowledge as to the same, which shall be deemed to be a denial.

(4) Failure to substantially comply with the provisions of subsection (3) shall constitute a waiver of the right to a section 120.57 Florida Statutes, administrative hearing.

(5) When a valid petition for administrative hearing has been timely filed, the Board shall enter a final order after receipt of the recommended order in accordance with the provisions of chapter 120, Florida Statutes. When a valid petition has not been timely filed, the order shall become final upon the expiration of the time for filing the petition. The final order shall constitute final agency action which shall be enforceable pursuant to sections 373.129, 373.136, 373.433, 373.603 and 120.69, Florida Statutes, provided however, that when the alleged violator fails to exhaust administrative remedies in accordance with the provisions of this section, all findings of fact and conclusions of law contained in the order shall

be deemed uncontested and true and shall become final and binding upon the respondent in any further judicial proceedings. In such event the final order shall not be subject to judicial review regarding those matters which might have been raised in a chapter 120 Florida Statutes, administrative hearing.

(6) Notwithstanding or in lieu of any administrative enforcement action taken pursuant to this section, the Executive Director may pursue appropriate judicial remedies pursuant to chapter 373, Florida Statutes.

Specific Authority 373.044, 373.113 F.S.
Law Implemented 120.53(1)(b),(c), 120.60(2),
120.68, 120.69, 373.119, 373.129, 373.136,
373.119, 373.209, 373.433, 373.603 F.S.
History--New, 9-3-81.

Specific Authority 373.044, 373.113 F.S.
Law Implemented 373.406, 373.413 F.S.
History--New.

Law Implemented 120.52(14), 120.53,
120.53(1)(b), 120.55(1)(a) F.S.
History --New 9-3-81, Amended 12-1-82.
Formerly 16K-1.90

40E-1.901 Forms and Instructions.

(1) The following forms and instructions are published by reference and incorporated into this chapter:

Form No.	Date	Title
OC-1	12-78	Architect-Engineer and Related Services Questionnaire
OC-2	12-78	Architect-Engineer and Related Services Questionnaire for Specific Project
RC-1	12-82	Application to the South Florida Water Management District
RE-4	7-80	Application for Release of Mineral, Canal, and Road Reservations Reserved Under Chapters 6456, 6957, 7305, 9131, 14717 and 20658, Laws of Florida
PA-14	12-82	Notice of Intent to Use Water
PA-39	3-83	Request for Permit Exemption Pursuant to Rule 40E-4.053, Surface Water Management
RC-17	5-81	Notice of Intent to Use Water in Conjunction with Oil Well Drilling in Lee, Collier and Hendry Counties
RP-63	12-82	Notice of Intent to Construct Works Pursuant to General Permit Chapter 40E-40.

(2) The forms and instructions listed in subsection (1) are published by the District and are available, without cost from the District's main office upon request.

Specific Authority 373.044, 373.113 F.S.

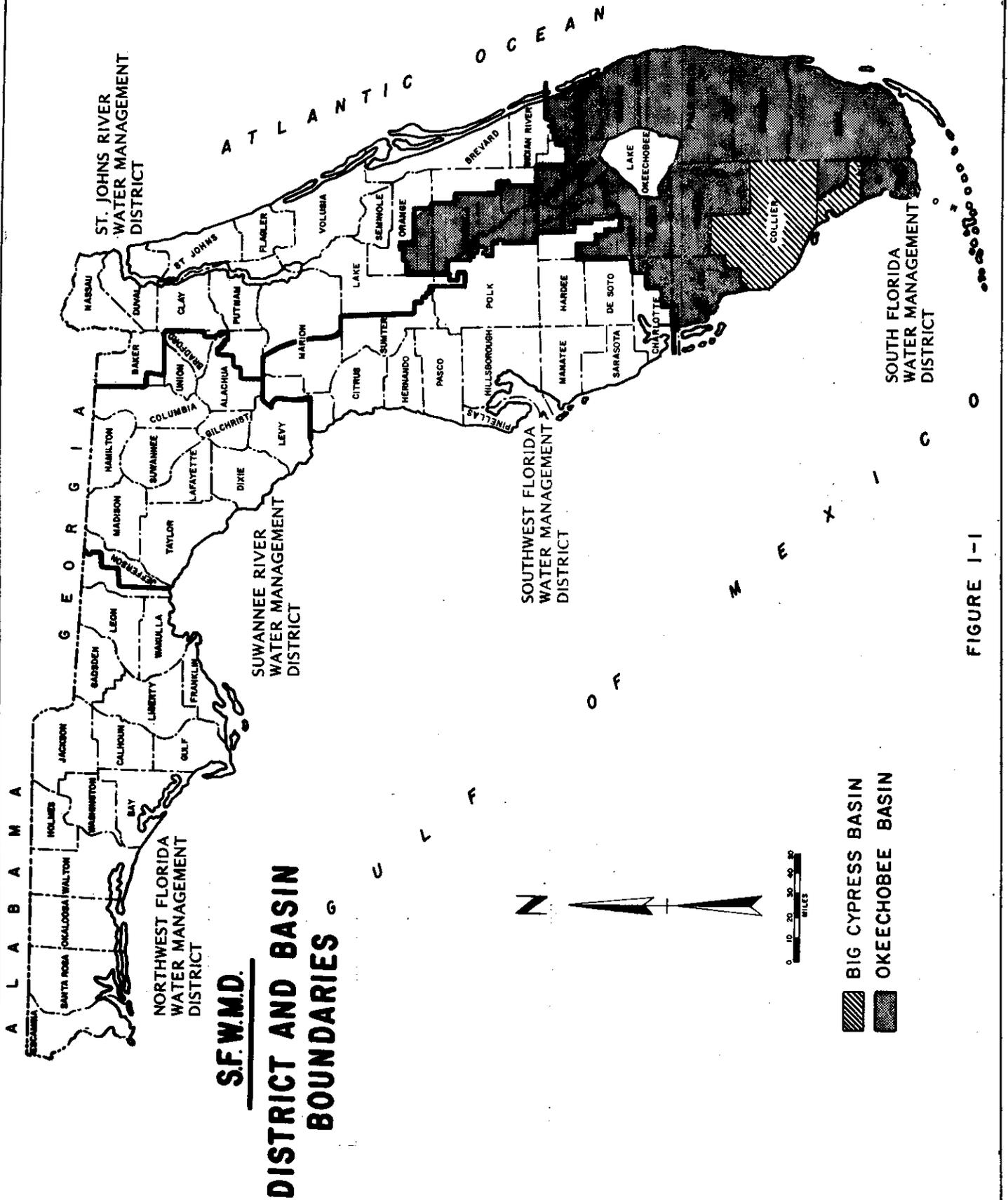


FIGURE I-1

SOUTH FLORIDA WATER MANAGEMENT DISTRICT ORGANIZATIONAL CHART

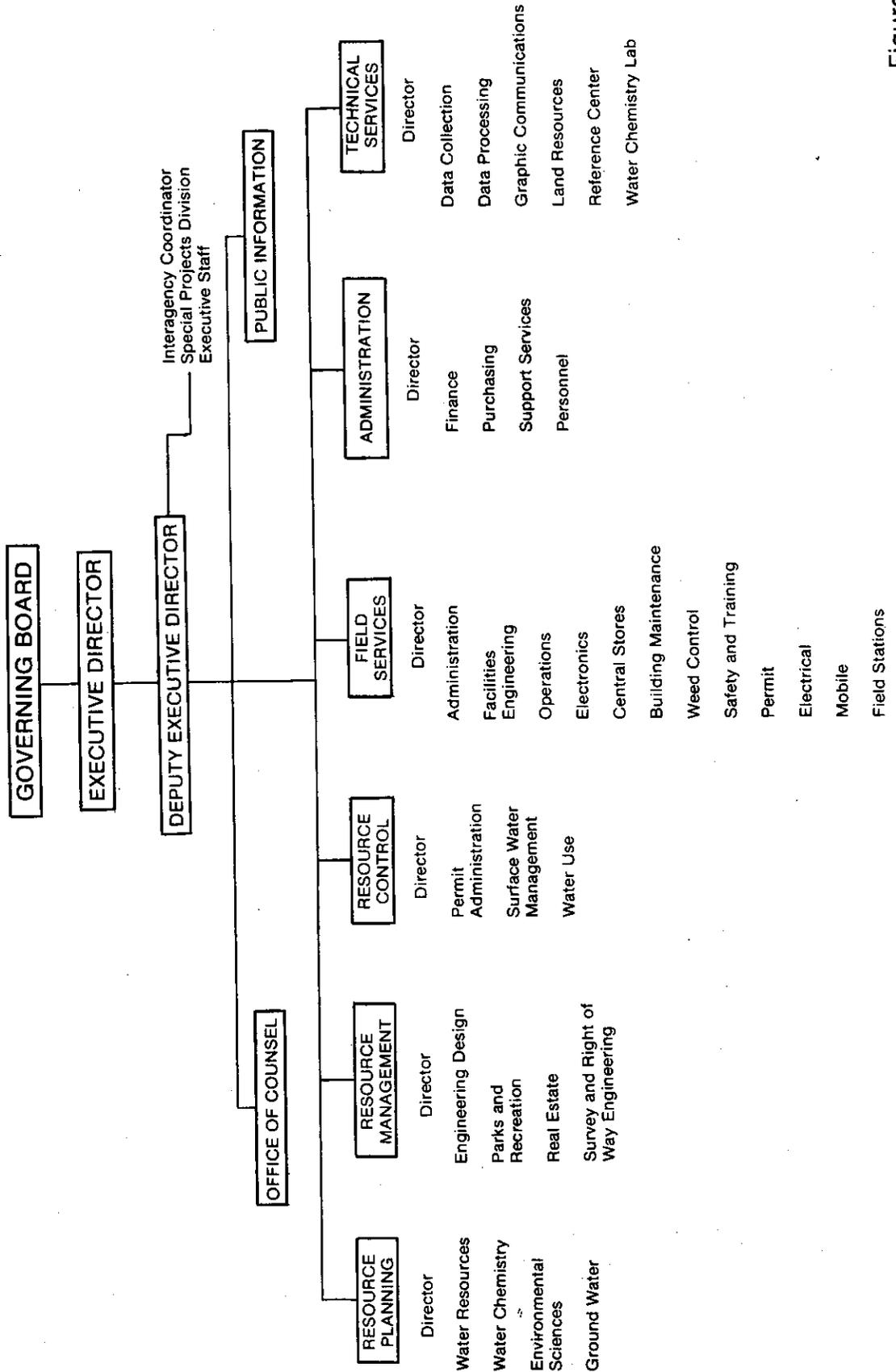


Figure 1-2

**RULES
OF THE
SOUTH FLORIDA WATER MANAGEMENT DISTRICT
CHAPTER 40E-2
CONSUMPTIVE USE**

- | | |
|--|--|
| <p>40E-2.011 Policy and Purpose
40E-2.031 Implementation
40E-2.041 Permits Required
40E-2.051 Exemptions
40E-2.091 Publications Incorporated by Reference
40E-2.101 Content of Application
40E-2.301 Conditions for Issuance of Permits
40E-2.321 Duration of Permit
40E-2.331 Modification of Permits
40E-2.351 Transfer of Permits
40E-2.381 Limiting Conditions
40E-2.441 Temporary Permits
40E-2.451 Emergency Authorization
40E-2.501 Permit Classification
40E-2.511 Declaration of a Water Shortage (Repealed 5-30-82)
40E-2.521 Change, Suspension or Restriction of Permits During Water Shortage (Repealed 5-30-82)
40E-2.531 Procedures Under Water Shortage (Repealed 5-30-82)
40E-2.541 Declaration of Emergency Due to Water Shortage (Repealed 5-30-82)
40E-2.551 Procedures Under Emergency Due to Water Shortage (Repealed 5-30-82)</p> | <p>Plan) and chapter 40E-22 (Regional Water Shortage Plans).
Specific Authority 373.044, 373.113 F.S.
Law Implemented 373.103(1), 373.203, 373.216-249 F.S.
History—New 9-3-81, Amended 7-4-82.
Formerly 16K-2.01</p> |
| <p>40E-2.011 Policy and Purpose.</p> <p>(1) It is the policy of the District to control all water uses within its boundaries, pursuant to the provisions of chapter 373, Florida Statutes, and chapters 17-40 and 40E.</p> <p>(2) The rules in this chapter implement the comprehensive water use permit system contemplated in part II of chapter 373, Florida Statutes.</p> <p>(3) Additional rules relating to water use are found in chapter 40E-20 (General Water Use Permits), chapter 40E-21 (The Water Shortage</p> | <p>40E-2.031 Implementation.</p> <p>(1) The effective dates for the water use permitting program established in this chapter are:</p> <p>(a) If the use or withdrawal of water exceeds 100,000 gallons per day, the effective dates are :</p> <p>1. January 12, 1977, for the portion of the District formerly within the Ridge and Lower Gulf Coast Water Management District ,</p> <p>2. March 2, 1974, for the remainder of the District;</p> <p>(b) If the use or withdrawal of water does not exceed 100,000 gallons per day, the effective date is January 14, 1979 .</p> <p>(2) The effective dates specified in subsection (1) are used to determine the two year period provided in section 373.226, Florida Statutes, for existing water users to file initial applications.
Specific Authority 373.044, 373.113 F.S.
Law Implemented 373.103(1), 373.216, 373.226 F.S.
History—New 9-3-81.
Formerly 16K-2.011</p> <p>40E-2.041 Permits Required.</p> <p>(1) Unless expressly exempt by law or District rule, a water use permit must be obtained from the District prior to any use or withdrawal of water.</p> <p>(2) The District issues water use permits in two forms, individual water use permits and</p> |

general water use permits. An individual water use permit may be obtained by meeting the requirements of this chapter. Chapter 40E-20 provides the requirements for qualifying for a general water use permit.

(3) Under certain circumstances the Board or the Executive Director may issue a temporary water use permit pursuant to rule 40E-2.441 and section 373.244, Florida Statutes.

Specific Authority 373.044, 373.113 F.S.

Law Implemented 373.103(1), 373.219, 373.244 F.S.

History—New 9-3-81.

Formerly 16K-2.03(1), (2)

40E-2.051 Exemptions.

No permit is required under rule 40E-2.041 for the following water uses:

(1) Water used strictly for domestic use by individual users.

(2) Water used strictly for fire fighting purposes, and

(3) Water used strictly for individual home use, including but not limited to home lawn and ornamental irrigation, car washing, and other incidental uses.

Specific Authority 373.044, 373.113 F.S.

Law Implemented 373.219 F.S.

History—New 9-3-81.

Formerly 16K-2.025

40E-2.091 Publications Incorporated by Reference.

(1) The following documents are hereby published by reference and incorporated into this chapter:

(a) "Basis of Review for Public Water System Water Use Applications-August 1980,"

(b) "Basis of Review of Applications for Industrial Water Use within the South Florida Water Management District-October 1980,"

(c) "Basis of Review of Applications for Mining Water Use (Dewatering) within the South Florida Water Management District-December 1980."

(2) The documents listed in subsection (1) are published by the District and are available from the District upon request.

Specific Authority 373.044, 373.113 F.S.

Law Implemented 373.219, 373.223, 373.224.

373.220, 373.222, 373.223

40E-2.101 Content of Application.

(1) Applications for permits required by this chapter shall be filed with the District. The application shall contain:

(a) Form RC-1 "Application to the South Florida Water Management District" ;

(b) The information required in subsection 373.229(1), Florida Statutes; and

(c) Information sufficient to show that the use meets the criteria and conditions established in rule 40E-2.301.

(2) In addition to the information specified in subsection (1), the application shall contain:

(a) for public water supply uses, the information required in Appendix 1 of the District's "Basis of Review for Public Water System Water Use Applications-August 1980";

(b) for industrial water uses, the information required in Appendix 1 of the District's "Basis of Review of Applications for Industrial Water Use within the South Florida Water Management District-October 1980";

(c) for mining water uses, the information required in Appendix 1 of the District's "Basis of Review of Applications for Mining Water Use (Dewatering) within the South Florida Water Management District-December 1980."

(3) The application must be signed by the user or his authorized agent.

Specific Authority 373.044, 373.113 F.S.

Law Implemented 373.103(1), 373.219, 373.223, 373.229 F.S.

History - New 9-3-81, 12-1-82.

40E-2.301 Conditions for Issuance of Permits.

(1) In order to obtain a permit under this chapter, an applicant must give reasonable assurances that the water use:

(a) does not cause significant inland movement of the saline water interface, or otherwise reduce the amount of potable water available as a direct result of inland movement of the saline water interface,

(b) does not adversely impact offsite land uses existing at the time of application,

(c) does not significantly impact environmentally sensitive areas,

(d) is otherwise a reasonable beneficial use

(e) does not interfere with presently existing legal uses, and

(f) is consistent with the public interest.

(2) In addition to the conditions specified in subsection (1), the applicant must show that the following conditions and criteria will be met:

(a) for public water supply uses, the general and specific criteria in the District's "Basis of Review for Public Water System Water Use Applications-August 1980";

(b) for industrial water uses, the general and specific criteria in the District's "Basis of Review of Applications for Industrial Water Use within the South Florida Water Management District-October 1980";

(c) for mining water uses, the general and specific criteria in the District's "Basis of Review of Applications for Mining Water Use (Dewatering) within the South Florida Water Management District-December 1980."

Specific Authority 373.044, 373.113 F.S.

Law Implemented 373.219, 373.223, 373.226, 373.236 F.S.

History--New 9-3-81.

Formerly 16K-1.08(9), 16K-2.035(2)

40E-2.321 Duration of Permit.

(1) Unless revoked or otherwise modified, the duration of a water use permit issued pursuant to this chapter is:

(a) for public water supply and industrial water uses, the lesser of the period required for the projected use to meet the allocated amount or 10 years. In Broward County water use permits shall not exceed five years.

(b) for mining water uses, the period required to complete the operation, not to exceed 10 years.

(c) for all other water uses, a period not to exceed 10 years.

(2) Water use permits expire automatically unless the permittee requests an extension before the expiration date.

Specific Authority 373.044, 373.113 F.S.

Law Implemented 373.236 F.S.

History--New 9-3-81.

40E-2.331 Modification of Permits.

(1) A permittee or the Executive Director shall apply to the Board for approval of any

modification of an unexpired permitted use pursuant to section 373.239, Florida Statutes.

(2) Applications for modification shall contain the information required in rule 40E-2.101, will be evaluated using the criteria specified in rule 40E-2.301 and will be subject to the limiting conditions specified in rule 40E-2.381.

(3) Proposed increases in allocation will be treated as new uses to the extent the proposed allocation exceeds the existing allocation.

Specific Authority 373.044, 373.113 F.S.

Law Implemented 373.223, 373.229, 373.239 F.S.

History--New 9-3-81.

Formerly 16K-2.09(1)

40E-2.351 Transfer of Permits.

Upon written request a permit may, at the District's option, be transferred. However, no transfer shall be approved unless the use remains the same. Upon approval, all terms and conditions of the permit shall be binding on the transferee.

Specific Authority 373.044, 373.113 F.S.

Law Implemented 373.223, 373.229, 373.239 F.S.

History--New 9-3-81.

Formerly 16K-2.09(2)

40E-2.381 Limiting Conditions.

(1) The Board may impose on any permit granted under this chapter such reasonable conditions as are necessary to assure that the permitted use or withdrawal will be consistent with the overall objectives of the District and will not be harmful to the water resources of the District.

(2) In addition to the limiting conditions specified in the documents incorporated by reference in this chapter by rule 40E-2.091, the following standard limiting conditions shall be attached to all permits issued pursuant to this chapter unless waived or modified by the Board.

(a) The permittee shall obtain all necessary Federal, State, local and special district authorizations prior to the use or withdrawal of water.

(b) The permit does not convey any property right to the permittee, nor any rights and privileges other than those specified in the permit and chapter 40E-2.

Specific Authority 373.044, 373.113 F.S.

Law Implemented 373.219(1) F.S.

History—New 9-3-81.

40E-2.441 Temporary Permits.

The Board or the Executive Director may issue temporary water use permits under the provisions of section 373.244, Florida Statutes.
Specific Authority 373.044, 373.113 F.S.
Law Implemented 373.244 F.S.
History—New 9-3-81.

40E-2.451 Emergency Authorization.

(1) Permission to begin use, withdrawal, or diversion of water prior to the issuance of a permit may be applied for in writing, when emergency conditions exist which would justify such permission. However, no such permission shall be granted unless the use, withdrawal or diversion is already being considered for a permit under rule 40E-2.041. A serious set of unforeseen or unforeseeable circumstances must exist to create an emergency. Mere carelessness or lack of planning on the part of the applicant shall not be sufficient grounds to warrant the granting of emergency authorization.

(2) The Executive Director may grant emergency authorization at his discretion. The emergency authorization shall be presented to the Board for concurrence at its next meeting. The failure to receive the Board's concurrence shall invalidate the emergency authorization.
Specific Authority 373.044, 373.113 F.S.
Law Implemented 120.60(5), 373.219 F.S.
History—New 9-3-81.
Formerly 16K-2.11

40E-2.501 Permit Classification.

Each water use permit shall be classified according to source, use and method of withdrawal. The source use and method of withdrawal classes are listed in rules 40E-21.611 through 40E-21.691.
Specific Authority 373.044, 373.113 F.S.
Law Implemented 373.246 F.S.
History—New 9-3-81, Amended 7-4-82.
Formerly 16K-2.12(2)

40E-2.511 Declaration of Water Shortage.

Specific Authority 373.044, 373.113 F.S. Law Implemented 373.246 F.S. History—New 9-3-81, Repealed 5-30-82. Formerly 16K-2.12(1)

40E-2.521 Change, Suspension or Restriction of Permits During Water Shortage.

Specific Authority 373.044, 373.113 F.S. Law Implemented 373.042, 373.246, F.S. History—New 9-3-81, Repealed 5-30-82. Formerly 16K-2.12(3),(4)

40E-2.531 Procedures Under Water Shortage.

Specific Authority 373.044, 373.113 F.S. Law Implemented 373.246 F.S. History—New 9-3-81, Repealed 5-30-82. Formerly 16K-2.13

40E-2.541 Declaration of Emergency Due to Water Shortage.

Specific Authority 373.044, 373.113 F.S. Law Implemented 373.246(7) F.S. History—New 9-3-81, Repealed 5-30-82. Formerly 16K-2.14

40E-2.551 Procedures Under Emergency Due to Water Shortage.

Specific Authority 373.044, 373.113 F.S. Law Implemented 373.246(7) F.S. History—New 9-3-81, Repealed 5-30-82. Formerly 16K-2.15

RULES
OF THE
SOUTH FLORIDA WATER MANAGEMENT DISTRICT
CHAPTER 40E-4
SURFACE WATER MANAGEMENT

40E-4.011	Policy and Purpose
40E-4.021	Definitions
40E-4.031	Implementation
40E-4.041	Permits Required
40E-4.051	Exemptions
40E-4.052	Request for Exemption
40E-4.053	Conditions for Exemption
40E-4.054	Modification of Exempt Projects
40E-4.091	Publications Incorporated by Reference
40E-4.101	Content of Application
40E-4.301	Conditions for Issuance of Permits
40E-4.321	Duration of Permits
40E-4.331	Modification of Permits
40E-4.341	Revocation of Permits
40E-4.351	Transfer of Permits
40E-4.381	Limiting Conditions
40E-4.451	Emergency Authorization

(1) It is the policy of the District to regulate and control the management and storage of all surface waters within its boundaries pursuant to the provisions of chapter 373, Florida Statutes and chapters 17-40 and 40E.

(2) The rules in this chapter implement the comprehensive surface water management permit system contemplated in part IV of chapter 373, Florida Statutes.

(3) Additional rules relating to surface water management are found in chapter 40E-40 (General Surface Water Management Permits) and chapter 40E-41 (Regional Surface Water Management Criteria).

Specific Authority 373.044, 373.113 F.S.
Law Implemented 373.086(1), 373.103(1), 373.103(4), 373.403-443 F.S.
History—New 9-3-81.
Formerly 16K-4.01

40E-4.021 Definitions.

When used in this chapter:

(1) "Surface water management permit" means a letter of conceptual approval, construction permit or operation permit.

(2) "Letter of conceptual approval" or "conceptual approval" means a surface water management permit issued by the District approving the concept of a master plan for a surface water management system which is binding upon the District and the permittee and constitutes final District action.

(3) "Construction permit" means a surface water management permit issued by the District authorizing construction, alteration or abandonment of a surface water management system in accordance with the terms and conditions of the permit.

(4) "Operation permit" means a surface water management permit issued by the District authorizing the operation and maintenance of a surface water management system in accordance with the terms and conditions of the permit.

(5) "Surface water management system" means the collection of devices, improvements or natural systems whereby surface waters are controlled, impounded, or obstructed. The term includes dams, impoundments, reservoirs, appurtenant works and works as defined in subsections 373.403(1)-(5), Florida Statutes.

(6) "Surface waters of the state" means those surface waters regulated pursuant to subsection 403.031(3) Florida Statutes.
Specific Authority 373.044, 373.113 F.S.
Law Implemented 373.403-.443, 403.031(3) F.S.
History—New, Amended 1-31-82, 12-1-82.
Formerly 16K-1.05(11)

40E-4.031 Implementation.

The effective dates for the surface water management permitting program established in this chapter are:

(1) January 12, 1977, for the portion of the District formerly within the Ridge and Lower Gulf Coast Water Management District.

(2) March 2, 1974, for the remainder of the District.

Specific Authority 373.113 F.S.
Law Implemented 373.403-443 F.S.
History--New 9-3-81.

40E-4.041 Permits Required.

(1) Unless expressly exempt by law or District rule a surface water management permit must be obtained from the District prior to the construction, alteration, operation, or abandonment of any dam, impoundment, reservoir, appurtenant work or works.

(2) The District issues three types of surface water management permits; letters of conceptual approval, construction permits and operation permits. Construction and operation permits may be issued in two forms, individual permits and general permits.

(a) A letter of conceptual approval may be issued for projects that are to be developed in phases. A letter of conceptual approval does not authorize any construction.

(b) An individual construction or operation permit may be issued for projects that do not qualify for general permits under Chapter 40E-40. An individual permit may authorize construction, alteration, abandonment, operation or maintenance of a surface water management system.

(c) A general construction or operation permit may be issued for specific classes of surface water management systems which satisfy the thresholds and conditions of Chapter 40E-40. A general permit may authorize construction, alteration, abandonment, operation and maintenance of a surface water management system.

(3) Maintenance of surface water management systems shall be considered only in conjunction with applications for construction, alteration, operation or abandonment.

Specific Authority 373.044, 373.113 F.S.
Law Implemented 373.413, 373.416, 373.426 F.S.
History--New 9-3-81, Amended 12-1-82.
Formerly 16K-4.03(1), 16K-4.07(1), 16K-4.09(1)

40E-4.051 Exemptions.

The following activities are exempt from permitting under this chapter:

(1) The activities specified in section 373.406, Florida Statutes.

(2) The construction, alteration, operation or abandonment of works which satisfy the requirements of rule 40E-4.053, and have received a notice of exemption from the District.

Specific Authority 373.044, 373.113 F.S.
Law Implemented 373.406 F.S.
History--New 9-3-81, Amended 1-31-82.
Formerly 16K-4.02

40E-4.052 Request for Exemption.

(1) Requests for an exemption for projects less than 10 acres of total land area should be filed with the District. This request shall contain:

(a) Form PA-39 "Request for Permit Exemption Pursuant to Rule 40E-4.053, (Surface Water Management)".

(b) The paving and drainage plan of the area showing:

1. the total land area;
2. the total area of impervious surface;
3. the location of any on-site wetlands;
4. the location and details of the surface water management system including but not limited to any lakes, culverts, pipes, exfiltration trench, discharge structures, pump and related facilities.

5. The surface water management system design plans must be signed and sealed by a Florida registered Professional Engineer, if required by chapter 471, Florida Statutes.

(c) Evidence of local government approval of the project. The applicant or local government may request non-binding District comments on a project, if necessary for the applicant to obtain evidence of local government approval.

(d) Affidavit of ownership of the property which shall include:

1. the legal description;
2. a statement that the total contiguous property owned or controlled by the applicant does not exceed 10 acres.

Specific Authority 373.044, 373.113 F.S.
Law Implemented F.S.
History--New.

40E-4.053 Conditions for Exemption.

In order to obtain an exemption under this part, an applicant must give reasonable assurances that:

1. The total land area does not equal or exceed 10 acres;
 2. The area of impervious surface will not equal or exceed 2 acres;
 3. The activities will not be conducted in wetlands;
 4. The activities will not be conducted in existing water bodies;
 5. The activities will not utilize pumps;
 6. The activities will not utilize storm drainage facilities larger than a 24 inch diameter pipe, or its hydraulic equivalent;
 7. The site is not included in more than 40 acres of contiguous potentially exempt lands;
 8. Discharges from the site will meet State water quality standards, as set forth in Chapter 17-3;
 9. The surface water management facilities are part of an approved Conservation Plan, if the facilities serve agricultural lands;
 10. The proposed building floors will be above the 100 year flood elevation;
 11. The activities can otherwise reasonably be expected to have acceptable or insignificant water resource impacts; and
 12. The surface water management system can be effectively maintained.
- Specific Authority 373.044, 373.113 F.S.
Law Implemented 373.406, 373.413 F.S.
History--New.

40E-4.054 Modification of Exempt Projects.

Any modification of a surface water management system in a project which has received a Notice of Exemption, must have the prior written approval of the District. A surface water management permit may be required for substantial modifications of previously exempt projects.

40E-4.091 Publications Incorporated by Reference.

(1) The following documents are hereby published by reference and incorporated into this chapter:

(a) "Basis of Review for Surface Water Management Permit Applications within the South Florida Water Management District-December 1982."

(2) The documents listed in subsection (1) are published by the District and are available from the District upon request.

Specific Authority 120.54(8), 373.044, 373.113 F.S.

Law Implemented 120.54(8), 373.413 F.S.

History--New 9-3-81, Amended 1-31-82, 12-1-82.

Formerly 16K-4.035(1)

40E-4.101 Content of Application.

(1) Applications for permits required by this chapter shall be filed with the District. The application shall contain:

(a) Form RC-1 "Application to the South Florida Water Management District"

(b) The information required in subsection 373.413(2) Florida Statutes;

(c) Drawings, calculations, and engineering details sufficient to define the nature, scope, intent and functioning of the work proposed; and

(d) The information required in Appendix 1 of the document described in paragraph 40E-4.091(1)(a).

(2) The application must be signed by the owner and his authorized agent, if applicable.

Specific Authority 373.044, 373.113 F.S.

Law Implemented 373.413, 373.416, 373.426 F.S.

History--New 9-3-81, Amended 1-31-82, 12-1-82.

Formerly 16K-4.03(2), 16K-4.07(2), 16K-4.09(2)

40E-4.301 Conditions for Issuance of Permits.

(1) In order to obtain a permit under this chapter, an applicant must give reasonable assurances that the surface water management system:

(a) provides adequate flood protection and drainage,

(b) will not cause adverse water quality and quantity impacts on receiving waters and adjacent lands regulated pursuant to chapter 373, Florida Statutes,

(c) will not cause discharges which result in any violation, in surface waters of the state, of the standards and criteria of chapter 17-3,

(d) will not cause adverse impacts on surface and groundwater levels and flows,

(e) will not cause adverse environmental impacts,

(f) can be effectively operated and maintained,

(g) will not adversely affect public health and safety,

(h) is consistent with the requirements of other public agencies,

(i) is, in the opinion of the District, the most publicly acceptable alternative available,

(j) will serve a proposed land use which :

1. for conceptual approvals, is compatible with the local government comprehensive plan or is compatible with the existing zoning for the area,

2. for construction and operation permits, is compatible with the existing zoning for the area,

(k) meets any applicable basin criteria in chapter 40E-41,

(l) will not otherwise be harmful to the water resources of the District, and will not interfere with the legal rights of others as defined in rule 17-40.07.

(m) is not against public policy, and

(n) will meet the general and specific criteria in the document described in paragraph 40E-4.091(1)(a).

(2) The surface water management system design plans must be signed and sealed by a Florida registered Professional Engineer, if required by chapter 471, Florida Statutes.

Specific Authority 373.044, 373.113 F.S.

Law Implemented 373.413, 373.416, 373.426 F.S.

History—New 9-3-81, Amended 1-31-82, 12-1-82.

Formerly 16K-4.035(2), 16K-4.30

40E-4.321 Duration of Permit.

(1) Unless revoked or otherwise modified, the duration of a surface water management permit issued pursuant to this chapter is:

(a) Two years from the date of issuance, for letters of conceptual approval unless within that period an application for a construction permit is filed for any portion of the project if the application for a construction permit is filed, then the letters of conceptual approval are valid for the duration of the project.

(b) three years, for, a construction permit unless the construction of the permitted project discharge structure or equivalent has been completed. If the permitted discharge structure or equivalent has been completed, then the construction permit is valid for the duration of the project.

(c) perpetual, for an operation permit issued under chapter 373, Florida Statutes.

(2) Letters of conceptual approval, and construction permits expire automatically unless the permittee requests an extension before the expiration date.

Specific Authority 373.044, 373.113 F.S.

Law Implemented 373.416, 373.419(2) F.S.

History—New 9-3-81, Amended 1-31-82, 12-1-82.

Formerly 16K-4.07(4)

40E-4.331 Modification of Permits.

An application for modification of a surface water management permit shall be processed in accordance with this rule, unless otherwise revoked, suspended or expired.

(1) Applications to modify letters of conceptual approval may be made and reviewed:

(a) for an alteration of the design of the surface water management system, in accordance with the same criteria as new applications pursuant to rules 40E-4.101 and 40E-4.301;

(b) for a construction or operation permit of a project phase, in accordance with Chapter 40E-40 if the project phase complies with the conceptual approval and otherwise satisfies the requirements of rules 40E-40.112 and 40E-40.302; or

(c) for a construction or operation permit of a project phase which does not satisfy the requirements of paragraph (b), in the same manner and using the same criteria applicable to the original request for conceptual approval.

(2) Applications to modify construction or operation permits may be made:

(a) by formal application and reviewed using the same criteria as new applications, pursuant to rules 40E-4.101 and 40E-4.301, or

(b) by letter, provided the requested modification does not:

1. substantially alter the permit authorization,

2. increase the authorized offsite discharge,

3. impact the environmental features of the project,

4. decrease the required retention/detention,

5. decrease the required flood control elevations for roads or buildings and

6. decrease pollution removal efficiency.

Specific Authority 373.044, 373.113, F. S.

Law Implemented 373.413, 373.416(1) F.S.

History—New 12-1-82.

40E-4.341 Revocation of Permits.

(1) A surface water management permit may be revoked under any of the following circumstances:

(a) The permittee or his agent has committed any of the acts enumerated in subsections 40E-1.609(1) or (2), or

(b) the permittee has not proceeded in a timely fashion to construct the authorized facilities and the permit has not automatically expired pursuant to section 40E-4.321 and more than 3 years has elapsed since the issuance of the construction permit.

(2) Revocation proceedings shall be conducted in accordance with the provisions of subsections 40E-1.609(3) through (8).

Specific Authority 373.044, 373.113, F.S.

Law Implemented 373.429, F.S.

History—New 12-1-82.

40E-4.351 Transfer of Permits.

(1) A permittee must notify the District within 30 days of the sale or conveyance of a surface water management system or the land on which the system is located. The District will transfer the surface water management operation and maintenance permit provided the use remains the same. A surface water management permit to construct or alter a system will not be transferred if the permit is over three years old and the permitted project discharge structure or equivalent has not been constructed.

(2) After the completion of construction of the surface water management system and approval of the facilities by the District, the District will transfer the operational phase of the permit to the accepted responsible operational entity.

Specific Authority 373.044, 373.113 F.S.

Law Implemented 373.413, 373.416(2) F.S.

History—New 9-3-81, Amended 12-1-82.

Formerly 16K-4.07(4)

40E-4.381 Limiting Conditions.

(1) The Board may impose on any permit granted under this chapter such reasonable conditions as are necessary to assure that the permitted operation will be consistent with the overall objectives of the District and will not be harmful to the water resources of the District.

(2) In addition to project specific special conditions, the following standard limiting conditions shall be attached to all permits issued pursuant to this chapter unless waived or modified by the Board.

(a) The permittee shall prosecute the work authorized in a manner so as to minimize any adverse impact of the works on fish, wildlife, natural environmental values, and water quality. The permittee shall institute necessary measures during the construction period, including full compaction of any fill material placed around newly installed structures, to reduce erosion, turbidity, nutrient loading and sedimentation in the receiving waters.

(b) Water quality data for the water discharged from the permittee's property or into surface waters of the state shall be submitted to the District as required. Parameters to be monitored may include those listed in chapter 17-3. If water quality data is required, the permittee shall provide data as required, on volumes of water discharged, including total volume discharged during the days of sampling and total monthly discharges from the property or into surface waters of the state.

(c) The permittee shall comply with all applicable local subdivision regulations and other local requirements. In addition the permittee shall obtain all necessary Federal, State, local and special district authorizations prior to the start of any construction or alteration of works authorized by this permit.

(d) The operation phase of this permit shall not become effective until a Florida registered Professional Engineer certifies that all facilities have been constructed in accordance with the design approved by the District. Within 30 days after completion of construction of the surface water management system, the permittee shall submit the certification and notify the District that the facilities are ready for inspection and approval. Upon approval of the completed surface water management system, the

permittee shall request transfer of the permit to the responsible entity approved by the District.

(e) All roads shall be set at or above elevations required by the applicable local government flood criteria.

(f) All building floors shall be set at or above elevations acceptable to the applicable local government.

(g) Offsite discharges during construction and development shall be made only through the facilities authorized by this permit. Water discharged from the project shall be through structures having a mechanism suitable for regulating upstream water stages. Stages may be subject to operating schedules satisfactory to the District.

(h) No construction authorized herein shall commence until a responsible entity acceptable to the District has been established and has agreed to operate and maintain the system. The entity must be provided with sufficient ownership so that it has control over all water management facilities authorized herein. Upon receipt of written evidence of the satisfaction of this condition, the District will issue an authorization to commence construction.

(i) The permit does not convey to the permittee any property right nor any rights or privileges other than those specified in the permit and chapter 40E-4.

(j) The permittee shall hold and save the District harmless from any and all damages, claims, or liabilities which may arise by reason of the construction, operation, maintenance or use of any facility authorized by the permit.

(k) This permit is issued based on the applicant's submitted information which reasonably demonstrates that adverse off-site water resource related impacts will not be caused by the completed permit activity. It is also the responsibility of the permittee to insure that adverse off-site water resource related impacts do not occur during construction.

(1) Prior to dewatering, plans shall be submitted to the District for approval. Information shall include as a minimum; pump sizes, locations and hours of operation for each pump. If off-site discharge is proposed, or off-site adverse impacts are evident, an individual water use permit may be required. The permittee is cautioned that several months may be required for consideration of the water use permit application.

Specific Authority 373.044, 373.113 F.S.

Law Implemented 373.413, 373.416, 373.426 F.S.
History—New 9-3-81, Amended 1-31-82, 12-1-82.
Formerly 16K-4.07(3), 16K-4.38

40E-4.451 Emergency Authorization.

(1) Permission to begin construction of works prior to the issuance of a permit may be applied for, in writing, when emergency conditions justify. However, no such permission shall be granted unless the construction of the works is already under consideration for a permit under rule 40E-4.04. A serious set of unforeseen or unforeseeable circumstances must exist to create an emergency. Mere carelessness or lack of planning on the part of the applicant shall not be sufficient grounds to warrant the granting of emergency authorization.

(2) The Executive Director may grant emergency authorization at his discretion. The emergency authorization shall be presented to the Board for concurrence at its next meeting. The failure to receive the Board's concurrence shall invalidate the emergency authorization.

Specific Authority 373.044, 373.113 F.S.

Law Implemented 373.413 F.S.

History—New 9-3-81.

Formerly 16K-4.13

**RULES
OF THE
SOUTH FLORIDA WATER MANAGEMENT DISTRICT
ARTIFICIAL RECHARGE
CHAPTER 40E-5**

40E-5.011 Policy and Purpose
40E-5.021 Definitions
40E-5.031 Implementation
40E-5.041 Permits Required
40E-5.051 Exemptions
40E-5.101 Content of Application

40E-5.011 Policy and Purpose.

(1) The rules in this chapter provide for the implementation of a permit system designed to regulate construction of projects involving artificial recharge or the intentional introduction of water into any underground formation.

(2) Presently the District and the Florida Department of Environmental Regulation (Department) coordinate the evaluation of artificial recharge projects on an informal basis. The Department is now drafting rules to implement a state underground injection control program. The District has been actively involved in evaluating the Department's drafts and proposals. Since the Department has undertaken this effort, the District will continue to coordinate informally until final rules are adopted by the Department. When the Department adopts its underground injection control program, the District intends to formalize its coordination efforts through interagency agreements and amendments to this chapter. Until such time the District will evaluate artificial recharge projects on a case by case basis.
Specific Authority 373.044, 373.113 F.S.
Law Implemented 373.106(1) F.S.
History--New, 9-3-81.

40E-5.021 Definitions.

When used in this chapter:

(1) "Artificial recharge" means the intentional introduction of any fluid substance into any underground formation. This definition

includes fluid substances from facilities such as injection wells, percolation ponds, land spreading, but does not include fluid substances from septic tanks for residential use.

(2) "Underground formation" means a unit of earth material with distinct physical and chemical characteristics, including the stratigraphic extension over voids and cavities.
Specific Authority 373.044, 373.113 F.S.
Law Implemented 373.106 F.S.
History--New, 9-3-81.
Formerly 16K-1.05(2), (9)

40E-5.031 Implementation.

The effective dates for the artificial recharge permitting program established in this chapter are as follows:

(a) January 12, 1977, for the portion of the District formerly within the Ridge and Lower Gulf Coast Water Management District annexed to the District by operation of Section 1, Chapter 76-243, Laws of Florida.

(b) March 2, 1974, for the remainder of the District.
Specific Authority 373.044, 373.113 F.S.
Law Implemented 373.106(1) F.S.
History--New, 9-3-81.
Formerly 16K-2.011(1)(a)

40E-5.041 Permits Required.

Unless expressly exempt by law or District rule, no person shall, without a permit from the District, construct any project involving artificial recharge or the intentional introduction of water into any underground formation.

Specific Authority 373.044, 373.113 F.S.
Law Implemented 373.106(1) F.S.
History--New, 9-3-81.
Formerly 16K-2.02(1)

40E-5.051 Exemptions.

No permit is required under rule 40E-5.041 for injection wells permitted under chapter 377, Florida Statutes.

Specific Authority 373.044, 373.113 F.S.

Law Implemented 373.106(1) F.S.

History--New 9-3-81.

Formerly 16K-2.02(1)

40E-5.101 Content of Application.

Applications for permits required by this chapter shall be filed with the District. The application shall contain:

(1) Form RC-1 "Application to the South Florida Water Management District" with Section A completed;

(2) Detailed plans and specifications for the construction of the project as prepared by a Florida registered Professional Engineer.

Specific Authority 373.044, 373.113 F.S.

Law Implemented 373.106(1) F.S.

History--New 9-3-81, Amended 5-30-82.

Formerly 16K-2.02(2)

**RULES
OF THE
SOUTH FLORIDA WATER MANAGEMENT DISTRICT
CHAPTER 40E-6
WORKS OF THE DISTRICT**

40E-6.011 Policy and Purpose
 40E-6.031 Implementation
 40E-6.041 Permits Required
 40E-6.091 Publications Incorporated by Reference
 40E-6.101 Content of Application
 40E-6.301 Conditions for Issuance of Permits
 40E-6.321 Duration of Permits
 40E-6.331 Modification of Permits
 40E-6.341 Revocation of Permits
 40E-6.351 Transfer of Permits
 40E-6.381 Limiting Conditions
 40E-6.451 Emergency Authorization
 40E-6.481 Remedial and Emergency Measures
 40E-6.491 Unlawful Use

40E-6.011 Policy and Purpose.

This chapter implements a permitting system regulating the use of or connection to, works of the District. Conditions and criteria are established to ensure that uses are compatible with the construction, operation, and maintenance of the works of the District.
 Specific Authority 373.044, 373.113 F.S.
 Law Implemented 373.085, 373.086 F.S.
 History--New, 9-3-81.
 Formerly 16K-5.01(1)

40E-6.031 Implementation.

The effective date for the right of way occupancy permitting program established in this chapter is March 2, 1974.
 Specific Authority 373.044, 373.113 F.S.
 Law Implemented 373.085, 373.086 F.S.
 History--New, 9-3-81.

40E-6.041 Permits Required.

Unless expressly exempt by law or District rule, a right of way occupancy permit must be

obtained prior to connecting with, placing structures in or across, discharging into or making use of, works of the District.

(2) Except when works of the District are open to the public, a key permit must be obtained prior to traveling on or across works of the District.

Specific Authority 373.044, 373.113 F.S.
 Law Implemented 373.085, 373.086 F.S.
 History--New 9-3-81.
 Formerly 16K-5.02(1), 16K-5.10

40E-6.091 Publications Incorporated by Reference.

(1) The following documents are hereby published by reference and incorporated into this chapter:

(a) "Criteria Manual for Use of Works of the District-June 1981."

(2) The documents listed in subsection (1) are published by the District and are available from the District upon request.

Specific Authority 373.044, 373.113 F.S.
 Law Implemented 373.085, 373.086 F.S.
 History--New 9-3-81.
 Formerly 16K-5.01(3)

40E-6.101 Content of Application.

(1) Applications for permits required by this chapter shall be filed with the District. The application shall contain the following information:

(a) Form RC-1 "Application to the South Florida Water Management District";

(b) The applicant's name and address including zip code;

(c) The owner's name and complete address if applicant or user is other than the owner;

(d) The project location relative to County, Section, Township and Range; Lot, Block and Subdivision; or a metes and bounds description;

(e) Whether the proposed use is a modification of an existing use, or is a new use;

(f) A description of the proposed use of or encroachment on works of the District;

(g) A description of the portion of the works of the District to be used;

(h) Three copies of a scaled or fully dimensioned 8½" x 14" drawing reflecting the proposed use in plan and elevation views and as related to the applicable work of the District tied to a known reference point in the immediate area of the proposed use;

(i) Information sufficient to demonstrate that the proposed use meets the criteria established in the District's "Criteria Manual for Use of Works of the District-June 1981".

(2) Applications shall be signed by the applicant or his authorized agent.
Specific Authority 373.044, 373.113 F.S.
Law Implemented 373.085(1) F.S.
History—New 9-3-81, Amended 12-1-82.
Formerly 16K-5.04(1)

40E-6.301 Conditions for Issuance of Permits.

(1) In order to obtain a permit under this chapter, an applicant must give reasonable assurances that the proposed use of works of the District:

(a) will not interfere with the construction, alteration, operation, or maintenance of the works of the District.

(b) is not inconsistent with the overall objectives of the comprehensive water use plan developed by the District.

(c) does not degrade the quality of the receiving body and meets the standards of the Florida Department of Environmental Regulation for the receiving body. The Board may waive the strict enforcement of this provision.

(d) meets the general and specific conditions and criteria in the District's "Criteria Manual for Use of Works of the District-June 1981."

(e) does not involve a discharge of wastewater from a new wastewater source.

(f) does not involve an increased discharge from an existing wastewater source which presently does not meet the standards of the Florida Department of Environmental Regulation for the receiving body or which causes an

increase in total BOD5 and suspended solids loads.

(2) The following conditions and criteria shall also be met:

(a) Unless expressly authorized by the Board no permanent structure shall be constructed within works of the District except bridges over channels, culverts through levees, lateral connections with major channels, public utility lines, mains and cables, and public roads.

(b) The applicant must own or lease the land adjacent to or served by the portion of the works of the District involved.

(c) If the use involves the construction of facilities for a non exempt water withdrawal or surface water discharge the applicant must apply for and obtain a water use or surface water management permit before the right of way occupancy permit will be granted.

(d) Due to the District's concern for the protection of environmentally sensitive areas, especially those directly under the District's control, future encroachments in these areas will be discouraged. Applications for right of way occupancy permits for use of the Water Conservation Areas or other lands which the District feels are environmentally sensitive will be reviewed on a case by case basis.

(e) If the use involves the construction of a bridge it shall be designed and certified by a professional engineer registered in the State of Florida. The bridge shall be designed to conform to applicable Florida Department of Transportation standards.

(f) The Board may require an annual inspection fee for use of works of the District.

(g) The portion of the works of the District used may be placed back on the tax rolls in the permittee's name.

Specific Authority 373.044 F.S.
Law Implemented 373.085, 373.086 F.S.

History—New 9-3-81.
Formerly 16K-5.03, 16K-5.04(1),(4), 16K-5.05(11), 16K-5.13

40E-6.321 Duration of Permits.

(1) Unless revoked or otherwise modified the duration of a right of way occupancy permit is:

(a) for construction, from the date the permit is issued to the date specified on the face of the permit.

(b) after construction is complete, perpetual.

(2) Construction permits expire automatically on the date indicated on the face of the permit, unless the permittee requests an extension before that date.

Specific Authority 373.044, 373.113 F.S.

Law Implemented 373.085, 373.086 F.S.

History—New 9-3-81.

Formerly 16K-5.07

40E-6.331 Modification of Permits.

Applications for modification to permitted uses shall be made in the same manner and reviewed using the same criteria as new uses, pursuant to rules 40E-6.101 and 40E-6.301.

Specific Authority 373.044, 373.113 F.S.

Law Implemented 373.085, 373.086 F.S.

History—New 9-3-81.

Formerly 16K-5.11(1)

40E-6.341 Revocation of Permits.

(1) A right of way occupancy permit may be revoked under any of the following circumstances:

(a) The permittee or his agent has committed any of the acts enumerated in subsection 40E-1.609(1), or

(b) the permitted use interferes or will interfere with the construction, alteration, operation, or maintenance of present or proposed works of the District, or

(c) the permittee has failed to immediately comply with an Emergency Order issued pursuant to rule 40E-1.601.

(2) Right of Way Occupancy permits are subject to immediate revocation if an emergency condition exists and the continued exercise of the permit might endanger lives or property.

(3) Revocations for reasons specified in subsection (1) shall be conducted in accordance with the procedures specified in subsections 40E-1.609(3) through (7). Emergency revocations under subsection (2) shall be conducted in accordance with the procedures specified in subsection 40E-1.609(8).

Specific Authority 373.044, 373.113 F.S.

Law Implemented 373.085, 373.086 F.S.

History—New 9-3-81.

Formerly 16K-5.07(3),(4)

40E-6.351 Transfer of Permits.

(1) Right of way occupancy permits are transferrable under the following circumstances:

(a) A request for transfer is made within 30 days of the sale or conveyance to the new permittee.

(b) The new permittee demonstrates that the permitted use still qualifies for a permit under rule 40E-6.301.

(c) The new permittee agrees to abide by the provisions of chapter 373, Florida Statutes, this chapter, and the terms and conditions of the permit.

(2) A permittee may allow a third party to use his permitted use if approved by the District, however the permittee shall not charge the third party for such use.

(3) Key permits are not transferrable.

Specific Authority 373.044, 373.113 F.S.

Law Implemented 373.085, 373.086 F.S.

History—New 9-3-81.

Formerly 16K-5.10, 16K-5.11(2), 16K-5.12

40E-6.381 Limiting Conditions.

In addition to specific limiting conditions, the following standard limiting conditions shall be included in all permits issued pursuant to this chapter unless waived or modified by the Board.

(1) All permitted uses shall remain the property of the permittee.

(2) The permittee shall abide by the terms and conditions of the permit.

(3) The permittee shall maintain the permitted use in a good and safe condition.

(4) The permittee shall hold and save the District harmless from any and all damages, claims, or liabilities which may arise by reason of the following:

(a) permittee's ownership, construction, maintenance, or operation of the permitted use; or

(b) damage to the permitted use caused, or arising by reason of the District's legal construction, maintenance or operation of the works of the District; or

(c) injury or damage to the person or property of any third person whether caused by the injured person, the permittee, parties other than the permittee, or the District while engaged in the legal construction, maintenance or operation of the works of the District, provided that such injury or damage arises because of the permittee's ownership, construction, maintenance, or operation of the permitted use.

(5) The permittee shall allow the District to inspect the permitted use at any time.

(6) The permittee shall take all feasible measures acceptable to the District to prevent the discharge of debris or aquatic weeds into any work of the District.

(7) Upon notice from the District, the permittee will promptly modify, alter or relocate the permitted use to conform it to any amendments to this chapter or the "Criteria Manual for the Use of Works of the District-June 1981."

(8) The permittee shall accept full responsibility for any erosion of or shoaling in any work of the District directly attributable to the permitted use.

(9) The permittee shall not plant trees or shrubs or erect structures that will limit or prohibit access of District equipment or vehicles.

(10) The permittee shall provide such bonds and assurances as may be deemed necessary by the Board.

(11) The District approves the permitted use only to the extent of its interest in the works of the District. The permittee shall obtain all other necessary Federal, State, local, special district and private authorizations prior to the start of any construction or alteration authorized by the permit.

(12) The permittee shall promptly comply with all District orders and upon request shall alter, repair, or remove the permitted use in a timely fashion and at his expense.

(13) The District has the right to change, regulate, limit, schedule, or suspend discharges into, or withdrawals from, works of the District in accordance with criteria established by the District for the works of the District.

(14) The District shall not be liable for any damages to a permitted use resulting from any amendments to this chapter.

(15) The permit does not convey to the permittee any property rights nor any rights or privileges other than those specified in this chapter.

Specific Authority 373.044, 373.113 F.S.

Law Implemented 373.085(1) F.S.

History--New 9-3-81, Amended 5-30-82.

Formerly 16K-5.01(2), 16K-5.02(2), 16K-5.03(2), 16K-5.05

40E-6.451 Emergency Authorization.

(1) Permission to begin use of works of the District prior to the issuance of a permit may be applied for, in writing, when emergency conditions justify. However, no such permission shall be granted unless the proposed use is already under consideration for a permit under rule 40E-6.041. A serious set of unforeseen or unforeseeable circumstances must exist to create an emergency. Mere carelessness or lack of planning on the part of the applicant shall not be sufficient grounds to warrant the granting of an emergency authorization.

(2) The Executive Director may grant an emergency authorization at his discretion. The emergency authorization shall be presented to the Board for concurrence at its next meeting. Failure to receive the Board's concurrence shall invalidate the emergency authorization. Specific Authority 373.044, 373.113 F.S. Law Implemented 373.085(1) F.S. History--New 9-3-81. Formerly 16K-5.09

40E-6.481 Remedial and Emergency Measures.

(1) In the event that construction, alteration, operation or maintenance of works of the District require the alteration, repair or removal of any permitted use, the District shall immediately notify the permittee. The permittee shall have 60 days to alter, repair or remove the permitted use.

(2) Permitted uses which have deteriorated to the degree that they are unsafe, a hazard, or an impediment to maintenance operations, shall be removed or repaired to the satisfaction of the District within 15 days of receipt of written notice.

(3) Permitted uses are subject to immediate alteration, repair or removal if an emergency condition exists and the continued exercise of the permitted use might endanger lives or property. The procedures in rule 40E-1.611 shall be followed.

(4) If the permittee fails to remove, alter or repair a permitted use when so ordered by the District, the District may repair, alter or remove it at the permittee's expense.

Specific Authority 373.044, 373.113 F.S.

Law Implemented 373.085, 373.086 F.S.

History--New 9-3-81.

Formerly 16K-5.08

40E-6.491 Unlawful Use.

(1) It shall be unlawful to connect with, place structures in or across, or otherwise make use of, works of the District without a right of way occupancy permit. The District may use any remedy available to it under chapters 120 and 373, Florida Statutes, and chapter 40E-1 to cause the unpermitted use to be removed or permitted.

(2) It shall be unlawful for any permitted use to violate the provisions of chapter 373, Florida Statutes, chapter 40E-6, or the terms and conditions of a right of way occupancy permit. The District may use any remedy available to it under chapters 120 and 373, Florida Statutes, and chapter 40E-1 to cause the permitted use to be removed or brought into compliance with chapter 373, Florida Statutes, and chapter 40E-6.

(3) Damage to works of the District resulting from the violations specified in subsections (1) and (2) shall be repaired by the violator to the satisfaction of the District. In lieu of making the repairs, the violator may deposit with the District a sufficient sum to insure such repair.

Specific Authority 373.044, 373.113 F.S.
Law Implemented 120.68, 373.085, 373.086 F.S.
History—New 9-3-81.
Formerly 16K-5.06

RULES
OF THE
SOUTH FLORIDA WATER MANAGEMENT DISTRICT
CHAPTER 40E-7
MISCELLANEOUS PROVISIONS

40E-7.111 General
40E-7.121 Definitions
40E-7.131 Selection of Lands - Five Year Plan
40E-7.141 Acquisition Procedures
- Negotiations
40E-7.151 Acquisition Procedures
- Condemnation
40E-7.161 Surveys
40E-7.171 Appraisals
40E-7.181 Funding
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40E-7.201 Policy and Purpose
40E-7.203 Qualifying Procedures
40E-7.205 Competitive Selection
40E-7.207 Competitive Negotiations

PART I
WATER MANAGEMENT LANDS TRUST FUND

40E-7.111 General.

(1) The purpose of the rule in this part is to implement the legislative intent expressed in section 373.590, Florida Statutes, and therefore, to establish District policies and procedures regarding a five year plan for the selection of land, and provide procedures for the acquisition and management of land, title to which shall vest in the District. It is also the intent of these rules to provide uniform acquisition procedures in order to effectuate efficient legal methods in accordance with sound business practices.
Specific Authority 373.044, 373.113, F.S.
Law Implemented 373.046, 373.056, 373.083, 373.084, 373.086, 373.089, 373.099, 373.103, 373.139, 373.59, Chapters 73 and 74, F.S.
History - New.

40E-7.121 Definitions.

When used in this chapter:

- (1) "Department" means Florida Department of Environmental Regulation.
- (2) "Secretary" means the Secretary of the Florida Department of Environmental Regulation.
- (3) "District" means the South Florida Water Management District or its successor agency.
- (4) "Fund" means the Water Management Lands Trust Fund.
- (5) "Plan" means the five year plan as approved by the Governing Board of the South Florida Water Management District.
- (6) "Project" means a parcel or parcels of land in a discrete unit of purchase.
- (7) "Survey" means a certified survey signed by a licensed land surveyor authorized to practice surveying in the State of Florida.
- (8) "Acquisition" means the reduction of the title to land to be acquired to fee or such other legal interest necessary for water management, water supply and the conservation and protection of water resources.

Specific Authority 373.044, 373.113, F.S.
Law Implemented 373.046, 373.056, 373.083, 373.084, 373.086, 373.089, 373.099, 373.103, 373.019, 373.139, 373.59, Chapters 73 and 74, F.S.
History - New.

40E-7.131 Selection of Lands - Five Year Plan.

(1) The District shall adopt a five year plan designating the areas of land to be acquired, which shall be filed with the legislature and the Secretary by January 15, 1982. Annually thereafter, modifications or additions to the five year plan shall be filed with the legislature and the Secretary.

(2) Prior to the adoption, amendment or modification of the five year plan, the District shall hold one or more public hearings.

(3) Acquisition activity for the preceding fiscal year shall be reported annually to the legislature and the Secretary by January 15 of each year.

Specific Authority 373.044, 373.113, F.S.

Law Implemented 373.139, 373.59, F.S.

History - New.

40E-7.141 Acquisition Procedures - Negotiations.

(1) Upon determination of land requirements, descriptions and maps sufficient to identify the lands to be acquired shall be prepared.

(2) Ownership information shall be obtained and reviewed in order to determine the title to the land being acquired.

(3) The District shall obtain at least one written appraisal pursuant to rule 40E-7.107.

(4) The District shall attempt to acquire each parcel through voluntary negotiation prior to commencement of proceedings in eminent domain.

(5) All contracts to purchase shall be reduced to writing and shall be contingent upon approval by the Board with the advice and concurrence of the Big Cypress or the Okeechobee Basin Board whenever Basin funds will be utilized for such acquisition.

(6) The District shall attempt to negotiate the acquisition of desired parcels in accordance with the following procedure:

(a) Each owner or authorized representative shall be contacted with an offer to acquire based on the appraised value of the property.

(b) A "Negotiation Report" may be prepared and forwarded to Office of Counsel, which shall summarize such negotiations, including the amount of offer made by the District, and any counter-offer made by the property owner.

(c) In the event an offer is accepted by an owner or a counter-offer is accepted by the District, the District shall:

1. arrange for the proper execution and recording of all necessary documents, and
2. request Office of Counsel to prepare a resolution requesting the Board to approve the necessary funds pursuant to rule 17-42.03.

(d) When a negotiated settlement cannot be readily attained, an authorized officer shall send a memorandum to Office of Counsel which shall include:

1. a request for a resolution to institute eminent domain proceedings,
2. identification of parcels by title memorandum number, and
3. legal interest or estate considered for acquisition.

(7) The District may accept donations of land. In such event the provisions of subsection (6) shall be followed, except that appraisals may be waived upon concurrence of both the landowner and the District.

Specific Authority 373.044, 373.113, F.S.

Law Implemented 373.056, 373.083, 373.086, 373.099, 373.103, 373.139, 373.59, F.S.

History - New.

40E-7.151 Acquisition Procedures - Condemnation.

(1) Proceedings in eminent domain shall not be commenced until authorized by the Board, with the advice and consent of the appropriate Basin Board whenever Basin funds will be utilized for such acquisition.

(2) The Board may adopt a resolution authorizing the institution of eminent domain proceedings, which shall include the following when applicable:

- (a) identification of the project for which the property is being acquired and its location,
- (b) a statement by the Board finding that the project is necessary and in the public interest,
- (c) a statement that acquisition of lands for the project by eminent domain is necessary,
- (d) a statement of the legal authority for the project and the acquisition of lands,
- (e) identification of the lands to be acquired, the nature of the legal interest sought, and adoption of project maps, if available, and
- (f) a statement authorizing and directing Office of Counsel to institute eminent domain proceedings and proceedings by way of Declaration of Taking.

Specific Authority 373.044, 373.113, F.S.

Law Implemented 373.59, Chapters 73 and 74, F.S.

History - New.

40E-7.161 Surveys.

(1) In order to determine the location, acreage and legal description of land to be acquired, the District may obtain a survey.

(2) In the event a survey is not obtained, the District shall then use the best available data in order to arrive at the boundaries and acreage of the land to be acquired.

(3) All surveys shall meet the minimum technical standard for land surveying in the State of Florida as adopted by the Florida State Board of Land Surveyors.

Specific Authority 373.044, 373.113, F.S.
Law Implemented 373.056, 373.083, 373.086,
373.099, 373.139, 373.59, F.S.

History - New.

40E-7.171 Appraisals.

(1) All lands to be acquired shall be appraised by at least one real estate appraiser, except as provided in subsection 40E-7.141(7).

(2) Prior to contracting with the District, each appraiser selected shall submit an affidavit substantiating that such appraiser has no vested or fiduciary interest in the property to be appraised, except for the professional fee.

(3) After a contract between the District and the appraiser has been executed, the District shall transmit all pertinent data to the appraiser regarding the assignment.

(4) An appraisal shall be approved by the Governing Board prior to use of that appraisal in negotiations with a landowner, provided however, the Executive Director may approve appraisals for negotiation, subject to the condition that such approval be ratified by the Board at its next meeting.

Specific Authority 373.044, 373.113, F.S.
Law Implemented 373.083, 373.139, 373.59, F.S.

History - New.

40E-7.181 Funding.

(1) For lands acquired by negotiation and purchase, the Board shall request the Department to release the state's share of monies from the fund by adopting a resolution which shall comply with chapter 17-42, Florida Administrative Code.

(2) For lands acquired by eminent domain, subsequent to the adoption of a resolution

authorizing eminent domain proceedings, the Board shall adopt a resolution pursuant to subsection (1), which in addition shall authorize the Executive Director or other staff officer to request monies from the Fund as follows:

(a) a request from the District for the state's share of funds sufficient to pay the owner the amount specified in the final judgment or the stipulation and order,

(b) a request from the District for the state's share of funds sufficient to pay the amount specified in the court's order or the stipulation and order for any costs and fees of the owner, whether incurred in the trial court or an appeal, and

(c) a request from the District for reimbursement of all the state's share of costs and fees incurred by the District associated with such acquisition,

(3) The District shall request the Department to release funds specified in subsection (2) within a sufficient time to allow the District to comply with section 73.111, Florida Statutes.

Specific Authority 373.044, 373.113, F.S.

Law Implemented 373.056, 373.083, 373.086,
373.099, 373.139, 373.59, F.S.

History - New.

40E-7.191 Disposition of Surplus Land.

(1) The District may sell or exchange District lands which have been acquired with funds from the Water Management Lands Trust Fund. District lands are considered surplus when:

(a) they are not required for District or project purposes pursuant to section 373.590, Florida Statutes,

(b) they have no possible present or future utility in the land management program of the District, and

(c) they have been declared surplus by the Board.

(2) Surplus land shall be disposed of in accordance with the procedures set forth in rule 40E-9.955.

(3) All funds received from the sale of surplus lands shall be used to purchase other lands meeting the criteria specified in section 373.590, Florida Statutes.

(4) All lands exchanged shall be in return for other lands meeting the criteria specified in section 373.590, Florida Statutes.

Specific Authority 373.044, 373.113, F.S.

Law Implemented 373.056, 373.083, 373.089,
373.099, 373.139, 373.59, F.S.
History - New.

Part II

40E-7.201 Policy and Purpose.

The rules in this part provide procedures in addition to those in section 287.055, Florida Statutes, to be followed in selecting firms to provide professional services and in negotiating contracts.

Specific Authority 287.055(3)(d), 373.044, 373.113 F.S.

Law Implemented 287.055 F.S.

History—New 9-3-81.

Formerly 16K-1.18

40E-7.203 Qualifying Procedures.

(1) Firms desiring to provide professional services to the District must be certified by the District. Application for certification can be accomplished by the applicant filing Form No. OC-1 "Architect-Engineer and Related Service Questionnaire" with the District. Incomplete forms will be returned to the applicant for completion before certification can be considered. Annual updates of Form No. OC-1 are required by the District for those firms desiring to maintain certification status with the District. All updates in any event shall have been furnished to the District not more than 60 days prior to the date of the public announcement to which the firm intends to respond.

(2) After the date of the public announcement to which the firm intends to respond, the firm shall file Form OC-2, "Architect-Engineer and Related Services Questionnaire for Specific Project" with the District.

Specific Authority 287.055(3)(d), 373.044, 373.113 F.S.

Law Implemented 287.055 F.S.

History—New 9-3-81.

Formerly 16K-1.18(1)

40E-7.205 Competitive Selection.

(1) For each District project requiring professional architectural, engineering or land surveying services the District will evaluate the current statements of qualifications and performance data on file with the District, together with such other qualification and performance data as may be submitted by other firms desiring to qualify for possible selection

for competitive negotiation for the proposed project. The District may require public presentation by no less than three firms regarding their qualifications, approach to the project and ability to furnish the required service.

(2) The District shall, following the review or the public presentation, select and list not less than three firms, in order of preference determined by the District, which firms shall be deemed to be the most highly qualified to perform the required professional services, after considering:

(a) the ability of the professional personnel,

(b) past performance,

(c) willingness to meet time and budget requirements,

(d) location of the firm in relation to the project,

(e) recent, current and projected work loads of the firm, and

(f) the volume of work previously awarded to the firms by the District, with the object of effecting an equitable distribution of contracts among qualified firms. The distribution shall not violate the principal of selection of the most highly qualified firm.

(3) The selection made will be presented, in writing, to the Executive Director who shall recommend to the Board that competitive negotiations be instituted with the selected firms in order of preference as listed.

Specific Authority 287.055(3)(d), 373.044, 373.113 F.S.

Law Implemented 287.055 F.S.

History—New 9-3-81.

Formerly 16K-1.18(2)

40E-7.207 Competitive Negotiations.

(1) After the Board has authorized the beginning of competitive negotiation, the Executive Director, or his designee, will begin such negotiation with the firm listed as most qualified and preferential to furnish and perform the requisite professional services for the project involved, in an attempt to arrive at an agreed compensation which is deemed to be fair, competitive and reasonable. A detailed analysis of the cost of the requisite professional services, considering the scope and complexity thereof, shall be done in making such a determination.

(2) In negotiating a lump sum or cost-plus-a-fixed-fee professional service contract for more than the sum of \$50,000.00, the firm receiving the award shall be required to execute a truth-in-negotiation certificate stating that "wage rates and other factual unit costs supporting the compensation are accurate, complete and current at the time of contracting". In addition, any professional service contract under which such a certificate is required shall contain a provision that "the original contract price and any additions thereto shall be adjusted to exclude any significant sums by which the District determines the contract price was increased due to inaccurate, incomplete, or non-current wage rates and other factual unit costs". Any contract adjustment must be made within one year following the termination of the contract.

(3) Should the Executive Director, or his designee, fail to negotiate satisfactorily with the firm determined to be the most qualified and preferential at a price deemed by the District to be fair, competitive and reasonable, negotiation with that firm shall be terminated and the Executive Director, or his designee, shall immediately thereafter begin negotiations with the second most qualified and preferential firm.

(4) Should the Executive Director, or his designee, fail to reach a satisfactory agreement with the second most qualified and preferential firm those negotiations shall be terminated by the Executive Director, or his designee, and negotiations with the third most qualified and preferential firm shall be undertaken.

(5) Should the Executive Director, or his designee, be unable to negotiate a satisfactory agreement with any of the selected firms, additional firms shall be selected by the District, in order of their competence and qualifications. This list of additional firms shall be submitted to the Executive Director, who shall order that negotiations shall continue beginning with the first named firm on the list, all in accordance with section 287.055(5), Florida Statutes. The negotiations shall continue until an agreement is reached.

Specific Authority 287.055(3)(d) 373.044,
373.113 F.S.

Law Implemented 287.055 F.S.

History—New 9-3-81.

Formerly 16K-1.18(3)

RULES
OF THE
SOUTH FLORIDA WATER MANAGEMENT DISTRICT
CHAPTER 40E-9
REAL PROPERTY ACQUISITION AND DISPOSAL

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40E-9.011 Policy and Purpose.

(1) It is the policy of the District to acquire such land or interests in land as may be necessary to provide for works of the District to, protect and conserve water and water-related resources, and to otherwise effectuate the purposes of chapter 373, Florida Statutes. It is further the policy of the District to sell, lease, release or otherwise dispose of such land or interests in land, which in the discretion of the District are of no present or apparent future use to the District.

(2) The rules in this chapter provide the procedure by which the District may acquire land or interests in land, and the terms and conditions under which the District may sell, lease, release or otherwise dispose of land or interests in land.

(3) The District is concerned with the protection of environmentally sensitive areas especially those in which the District has a property interest. Therefore applications for sales, exchanges, leases, easements, rights of way, release of reservations, or non-use commitments in the Water Conservation Areas and other environmentally sensitive areas are discouraged. Such applications will be evaluated on a case by case basis and will be denied if the sale, exchange, lease, easement, right of way,

release, or non-use commitment would adversely impact the environmentally sensitive area. Specific Authority 373.044, 373.113 F.S. Law Implemented 373.056, 373.086, 373.089, 373.093, 373.096, 373.099, 373.139 F.S. History--New, 9-3-81.

40E-9.951 Land Acquisition.

(1) The District may acquire land or interests in land necessary to effectuate its public purposes.

(2) Land acquisition shall be accomplished as follows:

(a) Purchase or exchange through negotiations;

(b) Donation;

(c) Lease; or

(d) Condemnation, if, land or interests in land cannot be acquired by other means.

(3) Pursuant to section 373.056 Florida Statutes the District may accept conveyances of land or interests in land from governmental bodies as may be necessary to effectuate its public purposes.

Specific Authority 373.044, 373.113 F.S.

Law Implemented 373.056, 373.086(1), 373.139 F.S.

History--New, 9-3-81.

Formerly 16K-6.01(2), (3), 16K-6.02(1)

40E-9.953 Relocations.

(1) The term relocation shall mean the relocation or alteration of any existing facility or structure lying within the boundaries of existing or proposed District works, or the construction of a facility by the District to mitigate severance damages caused by District works.

(2) The District shall not relocate or pay for the relocation of any facility that is or should

have been permitted by the District, unless the facility was installed or paid for by the District to mitigate damages incident to land acquisition.

(3) In the event the relocation is that of a privately owned facility not under District permit, the District shall, with the assistance if necessary of a qualified appraiser, determine the cost of the relocation and attempt to reach an agreement with the landowner for proper disposition of the relocation. The District or its assigns may perform the relocation work, or pay the landowner a cash sum equal to the cost of the relocation work in lieu of actually performing such work. In the event a relocation settlement with the landowner is unobtainable, eminent domain proceedings may be filed for a final determination of relocation costs.

(4) In the event a public facility is being relocated, the District shall, with the cooperation of the public entity asserting jurisdiction over the facility to be relocated, determine the cost of the relocation and which party is to bear the cost of same. If the relocation is determined to be the responsibility of the District, the District or its assigns may perform the relocation work, or pay the public entity asserting jurisdiction a cash sum equal to the cost of the relocation work in lieu of actually performing such work. The District will rely on the other entity to bear the cost and performance of the relocation in the event that the District is not responsible for the relocation.

Specific Authority 373.044 F.S.

Law Implemented 373.044, 373.086(1) F.S.

History--New, 9-3-81.

Formerly 16K-6.03

40E-9.955 Sale or Exchange of Surplus Lands.

(1) General -The District may sell or exchange surplus District lands. District lands are considered surplus when:

(a) they are not required for present or future works of the District.

(b) they are not required for present or future recreational development,

(c) they have no possible present or future utility in the District's land management program, and

(d) they have been declared surplus by the Board.

(2) Application--Applications to purchase or exchange surplus District lands shall be accompanied by the fee required in rule 40E-9.965, and shall include the following information:

(a) the applicant's name and address,

(b) a sketch, and an accurate legal description, including the acreage, of the land,

(c) if the sketch is not adequate to identify the land, the District may require a boundary survey, prepared by a registered Florida land surveyor,

(d) an aerial photograph, if available, showing the date of flight, with the land identified,

(e) a statement of the proposed use or development of the land,

(f) a statement evidencing that the proposed sale or exchange is not contrary to the public interest, and

(g) other survey or engineering data necessary to evaluate the request for sale or exchange.

(3) Terms and Conditions--General

(a) The Board shall determine whether the land requested is surplus and available for sale or exchange.

(b) The District may require the applicant to provide a current appraisal of the lands to be sold or exchanged, or may make an appraisal itself. If an appraisal is required, it shall be made by an appraiser with qualifications acceptable to the District. If the District elects to make the appraisal, the applicant shall immediately deposit the estimated cost of the appraisal with the District. The District reserves the right to reject any and all appraisals.

(c) Surplus land may be offered to an appropriate governmental entity. The provisions of rule 40E-9.961 shall apply to such conveyances.

(d) All sales or exchanges shall be for cash or upon such terms and security as approved by the Board. Deeds shall not be executed and delivered until full payment has been made and all terms and conditions have been met.

(e) All costs of the sale or exchange shall be assumed by the applicant or successful bidder, including but not limited to the fees specified in rule 40E-9.965, reasonable surveying and appraisal expenses, advertising fees, state documentary and surtax stamps and all recording fees.

(4) Terms and Conditions--Public Sales of Surplus Lands

(a) Surplus land shall be offered for resale to the then owner of the adjacent land from which the surplus land was originally severed. The procedures in subsection 373.089(5) Florida Statutes shall be followed. The then owner shall have 30 days from receipt of the notice required in subsection 373.089(5) Florida Statutes, to accept the offer. If the offer is accepted, the owner shall have 60 days from the date of acceptance to provide evidence of title for the adjacent lands, and one year from the date the land is declared surplus to complete the sale. The sale price shall be the current appraised value. If the then owner refuses to purchase the surplus lands, the District may offer it to other governmental entities or at public sale.

(b) Prior to any public sale of surplus lands, the District shall publish a notice of intention to sell if required under section 373.089 Florida Statutes. All sales shall be conducted pursuant to section 373.089 Florida Statutes.

(c) The District reserves the right to reject any and all bids or offers.

(5) Terms and Conditions--Exchanges of Surplus Lands

(a) Prior to any exchange of surplus lands, the applicant shall provide satisfactory evidence of marketable title in the applicant to his land.

(b) All lawfully assessed taxes shall be paid by the applicant.

Specific Authority 373.044, 373.113 F.S.

Law Implemented 373.089 F.S.

History--New, 9-3-81.

Formerly 16K-6.05

40E-9.957 Lease of Lands.

(1) General--The District may lease any lands or interests in lands, including but not limited to oil, gas and mineral rights, to which the District has or may hereafter acquire title.

(2) Application--Applications for leases shall be accompanied by the fee required in rule 40E-9.965, and shall include the following information:

(a) the applicant's name and address,

(b) a sketch and an accurate legal description including the acreage, of the land,

(c) if the sketch is not adequate to identify the land, the District may require a boundary survey, prepared by a registered Florida land surveyor,

(d) an aerial photograph, if available, showing the date of flight, with the land identified,

(e) a statement of the proposed use or development of the land,

(f) a statement evidencing that the proposed lease is not contrary to the public interest, and

(g) other survey or engineering data necessary to evaluate the request for lease.

(3) Terms and Conditions

(a) The Board shall determine whether the land is available for lease.

(b) The District may require the applicant to provide a current appraisal of the lands to be leased, or may make an appraisal itself. If an appraisal is required, it shall be made by an appraiser with qualifications acceptable to the District. If the District elects to make the appraisal, the applicant shall immediately deposit with the District, the estimated cost of making the appraisal. The District reserves the right to reject any and all appraisals.

(c) The District shall publish a notice of intent to lease if required under Section 373.093 Florida Statutes. The notice will solicit sealed bids from interested parties. The applicant must submit a sealed bid in order to be considered.

(d) The District reserves the right to reject any and all bids.

(e) If the District accepts a bid, the successful bidder will be notified by mail. The District will prepare a lease agreement for execution by lessor and lessee and deliver a copy of the executed agreement to the lessee.

(f) All costs of the lease shall be assumed by the applicant or successful bidder, including but not limited to the fees specified in rule 40E-9.965, reasonable surveying and appraisal expenses, advertising fees, state documentary and surtax stamps and all recording fees.

(g) All leases of land or interests in land shall be on the terms and conditions deemed appropriate by the District.

(h) Upon execution of the lease the District shall place the land back on the tax rolls in the lessee's name.

(i) The District may periodically inspect leased land and reevaluate all leases.

Specific Authority 373.044, 373.113 F.S.

Law Implemented 373.093 F. S.

History--New, 9-3-81.

Formerly 16K-6.06

40E-9.959 Releases and Non-Use Commitments.

(1) General--The District may release or agree not to exercise any easement, reservation or right of way interest.

(2) Application--Applications for releases and non-use commitments shall be made on forms provided by the District, accompanied by the fee required in rule 40E-9.965, and shall include the following information:

- (a) the applicant's name and address,
- (b) an accurate legal description, including the acreage, of the land,
- (c) a survey, sketch or recorded plat,
- (d) the name of any unit of local government within which the land is located. Units of local government include counties, municipalities and drainage or county water management districts,
- (e) the current and proposed land uses,
- (f) the current and proposed zoning, including a description of the pertinent zoning classifications,
- (g) certificate of ownership, and
- (h) a copy of the reserving deed, or information relating to the reserving deed, including number, date, recording data and grantee.

(3) Terms and Conditions--Canal Reservations

(a) District Canal Reservations--The District may release District canal reservation in whole or in part under the following circumstances:

1. the District determines that the lands in the requested release are not required in the overall flood control project, or any District project, or for use in an area in which there is not an existing secondary plan of water control, or
2. the requested release is in an area with a secondary plan of water control that has been designed and approved and the right of way requested to be released is not required in said plan.

(b) Trustees of the Internal Improvement Trust Fund and State School Board Canal Reservations--Rule 16C-9.11(2) requires District approval prior to releases of canal reservations reserved by the Trustees of the Internal Improvement Trust Fund or the State School Board. Upon receipt of a copy of a Department of Natural Resource's release application, accompanied by the fee required in rule 40E-9.965, the District will process it in the same manner and with the same criteria as an application for release of District canal reservations.

(c) Upon receipt of an application, the District will seek the concurrence of appropriate

governmental entities having a possible use for the canal reservations. The governmental entities shall have 30 days from date of notice to respond.

(4) Terms and Conditions--Road Reservations--The District may release road reservations in whole or in part under the following conditions:

(a) State road reservations - The Florida Department of Transportation has approved the requested release.

(b) County road reservations - The County Engineer of the affected county has approved the requested release.

(5) Terms and Conditions--Oil, Gas and Mineral Reservations

(a) Releases--The District may release oil, gas and mineral reservations under the following conditions:

1. the lands will be used for residential purposes,
2. the surface area is not greater than 1.25 acres, and
3. the applicant provides evidence that lands on which reservations were previously released have been sold.

(b) Non-use Commitments--The District may agree not to exercise rights of ingress and egress reserved with oil, gas and mineral reservations if the lands do not qualify for a release under paragraph (a). The District may issue a non-use commitment under the following conditions:

1. the landowner agrees not to lease for exploration or explore for oil, gas and minerals, and

2. the lands are to be used for residential, industrial, commercial, or governmental purposes, and

3. the landowner has applied for and obtained any permits required from the District.

Specific Authority 373.044, 373.113 F.S.

Law Implemented 373.096 F.S.

History--New, 9-3-81.

Formerly 16K-6.04

40E-9.961 Conveyances to Other Governmental Entities.

(1) The District may convey, dedicate, exchange, or grant lands or interests in lands to other governmental entities, including state agencies, counties, municipalities, drainage or county water management districts or other governmental bodies. Any conveyance, dedication

or grant shall be to effectuate the public purposes of the other governmental entity.

(2) Easements or Rights of Way

(a) Applications--Applications for easements or rights of way across District lands shall include the following information:

1. the governmental entity's name and address,
2. a request for the easement or right of way and a statement of proposed use. If the applicant is a local governing body, the request shall be by official resolution,
3. an accurate legal description, including the acreage, of the lands,
4. a survey prepared by a registered Florida land surveyor or a governmental agency,
5. an aerial photograph, if available, showing the date of flight, with the land identified,
6. the proposed terms of the easement or right of way, and
7. other survey or engineering data necessary to evaluate the request for easement or right of way.

(b) Terms and Conditions

1. Any easement or right of way across District lands shall be subject to reverter upon failure of the applicant to use the land as proposed in the application.

2. Any easement or right of way shall hold and save the District harmless against all claims, demands or judgment resulting from the action or inaction of the grantee.

3. The District shall require payment for easements and right of way unless payment is waived by the Board.

(3) Dedications of District Lands.

(a) Applications--Applications for dedications of District lands shall include the following information:

1. A resolution adopted by the applicant, requesting the dedication, setting forth the public need, proposed specific public use, legal description and acreage of the land sought, use of the proceeds from the land and its use, manner of administration, whether commercial concessions are contemplated, and assurance as to the development and use within a specified time,
2. a survey prepared by a registered Florida land surveyor or a governmental agency,
3. an aerial photograph, if available, showing the date of flight with the land identified,
4. a copy of the development plan, and

5. other survey or engineering data necessary to evaluate the request for dedication.

(b) Terms and Conditions

1. Any dedication of District lands shall be subject to reverter upon failure of the applicant to use the parcel as proposed in the application.

2. Any dedication shall hold and save the District harmless against all claims, demands or judgment resulting from the action or inaction of the grantee.

(4) Use of Canal Reservations for Secondary Construction.

(a) Applications--Applications for use of canal reservations held by the District or which are subject to transfer to the District from the Board of Trustees of the Internal Improvement Trust Fund for secondary construction shall include the following information:

1. the governmental entity's name and address,
2. a sketch of the lands showing the proposed secondary drainage project to be covered by the requested transfer,
3. an aerial photograph, if available showing the date of flight with the land identified,
4. a resolution adopted by the applicant requesting the transfer, setting forth the public need for the secondary drainage project, a legal description and acreage of the parcel sought, assurance that the reservations are to be utilized for drainage facilities and no other purpose, and that they are needed for the applicant's drainage plans,
5. a statement attesting that the reservations have not been released of record, or otherwise invalidated, and
6. other survey or engineering data necessary to evaluate the request for use of canal reservations.

(b) Terms and Conditions.

1. The District will transfer canal reservations pursuant to this subsection only to appropriate governmental entities, including state agencies, counties, municipalities, drainage or county water management districts or such other similar public or quasi public bodies.

2. Any transfer of canal reservations pursuant to this subsection shall be subject to reverter upon failure of the applicant to use the reservations sought as proposed in the application.

3. Any transfer of canal reservations shall hold and save the District harmless against all claims, demands or judgments resulting from the action or inaction of the grantee.

(5) Conveyances or Exchanges.

(a) Applications - Applications for conveyances or exchanges of District lands shall include the following information:

1. the governmental entity's name and address,

2. a request for the conveyance or exchange and a statement of proposed use. If the applicant is a local governing body, the request shall be by official resolution,

3. an accurate legal description, including the acreage, of the lands,

4. a survey prepared by a registered Florida land surveyor or a governmental agency,

5. an aerial photograph, if available, showing the date of flight, with the land identified, and

6. the proposed terms of the conveyance or exchange.

(b) Terms and Conditions--General

1. The Board shall determine whether the land requested is surplus and available for sale or exchange.

2. The District may require the applicant to provide a current appraisal of the lands to be sold or exchanged, or may make an appraisal itself. If an appraisal is required, it shall be made by an appraiser with qualifications acceptable to the District. If the District elects to make the appraisal, the applicant shall immediately deposit the estimated cost of the appraisal with the District. The District reserves the right to reject any and all appraisals.

Specific Authority 373.044, 373.113 F.S.

Law Implemented 373.056(4) F.S.

History--New, 9-3-81.

Formerly 16K-6.02

40E-9.963 Sale of Surplus Spoil Material.

(1) The District may sell or otherwise dispose of surplus spoil material in accordance with the procedures and terms and conditions specified herein. For purposes of this rule, the term "surplus spoil material" means any District owned spoil which is not needed for the operation and maintenance of the works or lands of the District.

(2) Procedures--The following procedures are applicable to the sale or other disposition of surplus spoil material.

(a) Receive request to purchase spoil material.

(b) Determine whether requested spoil material qualifies as surplus spoil material.

(c) Publish notice of sale if required.

(d) Secure approval of Board or Executive Director as required.

(e) Execute agreement with successful purchaser.

(f) Receive all payments, deposits, bonds, certificates, cross sections, and other materials that are required to be provided in advance of removal operations by the agreement or in subsection (3).

(g) Issue notice to proceed to successful purchaser.

(3) Terms and Conditions.

(a) Unless waived by the Board (in the case of proposed sales exceeding 10,000 cubic yards) or the Executive Director (in the case of proposed sales not exceeding 10,000 cubic yards), the terms and conditions specified in subsection (3) apply to all sales or other dispositions of surplus spoil material. All sales or other dispositions of surplus spoil material shall be effectuated by an agreement which shall specify the consideration for the purchase, the conditions of performance, and the respective rights and liabilities of the parties.

(b) If the quantity of surplus spoil material to be sold exceeds 10,000 cubic yards, then the following terms and conditions shall apply unless waived by the Board.

1. Sale of surplus spoil material shall be subject to the approval of the Board.

2. The District shall invite sealed competitive bids by causing a notice of sale to be published in a newspaper in the county in which the spoil material is situated. The notice shall specify the location of the surplus spoil material, the amount of material available, and the minimum terms and conditions of the sale.

3. The purchaser shall provide the District with certified cross sections of the surplus spoil material in advance of removal operations. Upon completion of removal operations, the purchaser shall provide the District with certified as-built cross sections of the works or lands of the District involved.

(c) If the quantity of surplus spoil material to be sold does not exceed 10,000 cubic

yards, then the following terms and conditions shall apply unless waived by the Executive Director.

1. Sale of the surplus spoil material shall be subject to the approval of the Executive Director.

2. The District shall determine the amount of spoil to be removed by appropriate method. If cross sections are deemed advisable, the District shall stake and cross section the surplus spoil material area in advance of removal operations. Upon completion of removal operations the District shall determine the as-built cross sections of the works or lands of the District involved.

3. The District shall not sell more than a total of 10,000 cubic yards to one person, his employees, agents or representatives for use on any one job within one year of the date of the first sale to that person without Board approval.

(d) Unless waived, the following additional terms and conditions shall apply regardless of the quantity of surplus spoil material to be sold.

1. The District shall assign the surplus spoil material a monetary value per cubic yard based upon its present market value as determined by the going rate of similar type material in the same area. The surplus spoil material shall not be sold at less than this minimum value per cubic yard. Provisions may be placed in the spoil contract for an escalation in unit price after a lapse of time.

2. All estimated surplus spoil material charges shall be paid by the purchaser in advance. Final payment by the purchaser or refund by the District shall be based upon final measured quantities of surplus spoil material removed as determined from the cross sections specified in paragraph (3)(b) or (3)(c).

3. Governmental entities may purchase surplus spoil material at one-half the value as established in subparagraph (3)(b)1, if the material is to be used for public purposes.

4. All works or lands of the District shall be restored to the lines and grades deemed necessary by the District in accordance with the design standards established for the works or lands involved.

5. Appropriate erosion protection measures shall be incorporated into the removal operations.

6. A performance bond or cash deposit sufficient to assure faithful performance of the

agreement and restoration of the works or lands of the District to original or better condition shall be furnished to the District.

7. The purchaser shall agree to hold and save the District harmless against all claims, demands or judgments resulting from the action or inaction of the purchaser.

8. The purchaser shall maintain insurance, written by a company duly authorized to do business in the State of Florida, for coverages and amounts deemed necessary by the District. A certificate of insurance countersigned by a registered Florida insurance agent or broker reflecting the required insurance shall be furnished to the District.

9. Any additional permits or approvals required by any local, state or federal agency shall be the responsibility of the purchaser.

10. The District may inspect and monitor the removal operations to ensure compliance with the terms and conditions specified herein and in the contract for sale.

11. Removal operations shall not commence until the purchaser has received a notice to proceed from the District.

Specific Authority 373.044, 373.113 F.S.
Law Implemented 373.086(1), 373.103(6) F.S.
History—New, 9-3-81.
Formerly 16K-6.07

40E-9.965 Fee Schedule.

(1) The following schedule of non-refundable fees shall apply to all applications made pursuant to this chapter:

Type of Application	Fee
(a) Sale of surplus lands	\$150.00
(b) Exchange of surplus land	\$100.00
(c) Leases	\$100.00
(d) Releases and non-use commitments	
1. Releases	
i. canal reservations	\$ 50.00
ii. road reservations	\$ 50.00
iii. mineral reservations	\$ 50.00
iv. multiple releases	
combined into one instrument	\$ 50.00
2. Non-use commitments	
i. residential	
(single sites)	\$ 50.00

ii. commercial, industrial,
residential, and govern-
mental development \$ 50.00
plus \$5.00 for each
acre or fraction
thereof over one.

- (e) Miscellaneous
1. approval of release of TIITF or
State School Board
reservations \$ 50.00
 2. quitclaim deeds \$ 50.00
 3. reissue or corrective deed \$ 50.00
 4. disclaimers \$ 50.00

(2) The Board may waive the fees set forth
in subsection (1) for governmental applicants.
Specific Authority 373.044, 373.113 F.S.
Law Implemented 373.089, 373.093, 373.096,
373.099 F.S.
History--New, 9-3-81.

**RULES
OF THE
SOUTH FLORIDA WATER MANAGEMENT DISTRICT
CHAPTER 40E-20
GENERAL WATER USE PERMITS**

40E-20.011 Policy and Purpose
 40E-20.031 Implementation
 40E-20.042 General Permit for Water Use
 40E-20.112 Notice of Intent
 40E-20.141 Request for Additional Information
 40E-20.302 Conditions for Issuance of Authorization
 40E-20.321 Duration of Permit
 40E-20.341 Revocation of Permit
 40E-20.351 Transfer of Permits
 40E-20.381 Limiting Conditions

40E-20.011 Policy and Purpose.

The rules in this chapter grant general permits for water use for certain specified uses which have been determined to be reasonable-beneficial, not interfering with existing legal uses and consistent with the public interest. The purpose of this chapter is to set forth the requirements for qualifying for a general water use permit and the conditions under which it may be exercised. Non-exempt uses or withdrawals not qualifying for a general water use permit under this chapter are required to obtain individual permits. The District reserves the right to require an individual permit for any use or withdrawal which does not comply with this chapter, is not a reasonable-beneficial use or which is harmful to the water resources of the District, interferes with a presently existing legal use of water, is inconsistent with the overall objectives of the District, or is otherwise contrary to the public interest. Specific Authority 373.044, 373.113 F.S. Law Implemented 373.103(4), 373.219 F.S. History—New 9-3-81. Formerly 16K-2.031(4), 16K-2.032(4)

40E-20.031 Implementation.

(1) This rule specifies the effective dates of the water use general permits granted in this chapter.

(2) (a) If the use or withdrawal meets the conditions of subsection 40E-20.302(2), the effective date is December 12, 1977.

(b) If the use or withdrawal meets the conditions of subsection 40E-20.302(1)(b)1.a. or 40E-20.302(1)(b)2. or the use or withdrawal was located within Sanibel, Captiva or North Captiva Islands, Lee County, the effective date is January 29, 1979.

(c) If the use or withdrawal meets the conditions of subsection 40E-20.302(1)(b)1.c. the effective date is September 3, 1981.

(d) If the use or withdrawal meets the conditions of subsection 40E-20.302(1)(b)1.b., except Sanibel, Captiva or North Captiva Islands, or subsection 40E-20.302(1)(b)1. d. e. f. g. or h. the effective date is December 1, 1982. Specific Authority 373.044, 373.113 F.S. Law Implemented 373.103(1), 373.216 F.S. History - New 9-3-81, Amended 12-1-82.

40E-20.042 General Permit for Water Use.

(1) All persons using or withdrawing water, who are not exempt under rule 40E-2.051 and who meet the conditions specified in rule 40E-20.302, are hereby granted a general permit to use and withdraw water subject to the requirements of this chapter.

(2) No use or withdrawal of water shall commence under this general permit until the permittee receives a written authorization to proceed from the District.

(3) The District shall issue the authorization to proceed within 60 days from the receipt of a complete Notice of Intent and all requested additional information. Specific Authority 373.044, 373.113 F. S.

Law Implemented 120.60(2), 373.103(4), 373.219 F.S.

History—New 9-3-81.

Formerly 16K-2.031(1), 16K-2.032(1)(a)

40E-20.112 Notice of Intent.

Prior to commencement of any use or withdrawal of water authorized in this chapter the permittee shall file with the District, a written Notice of Intent to Withdraw Pursuant to General Permit. Authorized uses or withdrawals in existence prior to January 29, 1979 are not required to file a Notice of Intent.

(1) Persons qualifying for a general permit under subsection 40E-20.302(1) shall file the Notice of Intent at least 60 days prior to using or withdrawing water, and shall include the following information:

- (a) the permittee's name and address;
- (b) the date on which use or withdrawal commenced or is expected to commence;
- (c) the source of the water supply;
- (d) the estimated amount of water to be withdrawn;
- (e) the use to be made of the water;
- (f) a description of land served by the use or withdrawal;
- (g) the location of point(s) of withdrawal;
- (h) the number and size of wells or other withdrawal facilities; and
- (i) a statement that all applicable conditions in rule 40E-20.381 will be met.

(2) Persons qualifying for a general permit under subsection 40E-20.302(2), shall file the Notice of Intent at least five days prior to using or withdrawing water, and shall include the following information:

- (a) the name of the permittee;
- (b) the name of the proposed project;
- (c) the location of the project;
- (d) a brief description of the project;
- (e) the name of the water well driller;
- (f) a brief statement of facts which show why the proposed use or withdrawal qualifies for a general permit;
- (g) a statement that all necessary Federal, State, local and special district authorizations have been received or will be received prior to initiation of drilling or any activity at the site, where required;
- (h) the date on which use or withdrawal is expected to commence;

(i) the estimated amount of water to be withdrawn from each well;

(j) the volume and location of surface discharges of salt water, if any;

(k) the environmental impact of the water withdrawal, if any;

(l) the location of any surface water use other than the permittee within 300 feet of the proposed water wells; and

(m) a statement that all applicable conditions in rule 40E-20.381 will be met.

Specific Authority 373.044, 373.113 F.S.

Law Implemented 373.103(4), 373.223, 373.229 F.S.

History—New 9-3-81.

Formerly 16K-2.031(3), 16K-2.032(3)

40E-20.141 Request for Additional Information.

(1) If the information provided in the Notice of Intent required by rule 40E-20.112 is not sufficient to determine whether the use or withdrawal qualifies for a general permit or meets the conditions in rule 40E-20.381, the District may request the permittee to submit additional information, including any information required in rule 40E-2.101.

(2) If additional information is required it shall be requested within 30 days of receipt of the Notice of Intent.

Specific Authority 373.044, 373.113 F.S.

Law Implemented 120.60(2), 373.219 F.S.

History—New 9-3-81.

40E-20.302 Conditions for Issuance of Authorization.

(1)(a) The use or withdrawal of water not exceeding the thresholds in paragraph (b) qualify for a general permit.

(b) Thresholds

1. 10,000 gallons average per day or 20,000 gallons maximum per day within the following areas:

a. Stuart Peninsula (see Figure 20-1).

BEGINNING at the Southeasterly end of Roosevelt Bridge (U.S. Highway No. 1 Bridge) over the St. Lucie River in Section 5, Township 38 South, Range 41 East, City of Stuart, Martin County, Florida; Thence, Northerly, Easterly, Southeasterly, Southerly and Southwesterly along the Southerly and Southwesterly bank of the St. Lucie River to the Northerly bank of Willoughby Creek; Thence, Northwesterly along said Northerly bank to Indian Street; Thence, Southwesterly

along Indian Street, Indian Avenue and its Westerly prolongation to the East bank of the South Fork of the St. Lucie River; Thence, Northerly along said Easterly Bank to the POINT OF BEGINNING.

b. Lee County (see Figure 20-2).

All of Lee County as described in Section 736, Florida Statutes.

c. Lighthouse Point Peninsula (see Figure 20-3).

A parcel of land in Section 31, Township 37 South, Range 41 East, Section 1 and 12, Township 38 South, Range 40 East and Sections 5, 6, 7 and 8, Township 38 South, Range 41 East, Martin County, Florida, being specifically described as follows:

BEGINNING at the Southeast corner of said Section 7; thence, Westerly along the South line of said Section 7 to the West line of the East one-quarter of said Section 7; thence, Northerly along said West line to the South line of the North one-quarter of said Section 7; thence, Westerly along said South line and along the South line of the North one-quarter of said Section 12 to the West line of said Section 12; thence, Northerly along the West line of said Section 12 to Bessey Creek; thence, Northeasterly along Bessey Creek to the South Bank of the North Fork of the St. Lucie River; thence, Easterly and Southerly along said South bank and the Westerly bank of the South Fork of the St. Lucie River to the South line of said Section 8; thence, Westerly along the South line of said Section 8 to the Southeast corner of said Section 7 and the POINT OF BEGINNING.

d. Coastal Collier County (see Figure 20-4).

BEGINNING at the Northeast corner of Section 1, Township 47 South, Range 27 East; Thence, Westerly along the Township line between Townships 46 and 47 to the Northwest corner of Section 6, Township 47 South, Range 27 East; Thence, Southerly along the Section lines to the Southwest corner of Section 6, Township 48 South, Range 27 East; Thence, Westerly along the Section lines to the Southeast corner of Section 5, Township 48 South, Range 25 East; Thence, Northerly along the Section line to the Northeast corner of said Section 5; Thence, Westerly along the Township line between Townships 47 and 48 to the Gulf of Mexico; Thence, Southerly along said Gulf, including all islands and the waters of said Gulf within the jurisdiction of the State of Florida, to the intersection thereof with the

North boundary line of the Everglades National Park; Thence, along said North boundary line to the Southeast corner of Section 12, Township 53 South, Range 30 East; Thence, Northerly along the Section lines to the Northeast corner of Section 13, Township 52 South, Range 30 East; Thence, Westerly along the Section lines to the Southwest corner of Section 7, Township 52 South, Range 30 East; Thence, Northerly along the Section lines to the Northeast corner of Section 1, Township 52 South, Range 29 East; Thence, Westerly along the Section lines to the Northwest corner of Section 6, Township 52 South, Range 29 East; Thence, Northerly along the Section lines to the Northeast corner of Section 25, Township 51 South, Range 28 East; Thence, Westerly along the Section lines to the Northeast corner of Section 25, Township 51 South, Range 27 East; Thence, Northerly along the Section lines to the Northeast corner of Section 25, Township 50 South, Range 27 East; Thence, Westerly along the Section lines to the Northeast corner of Section 27, Township 50 South, Range 26 East; Thence, Northerly along the Section lines to the Southeast corner of Section 34, Township 48 South, Range 26 East; Thence, Easterly along the Section lines to the Southeast corner of Section 36, Township 48 South, Range 27 East; Thence, Northerly along the Section lines to the POINT OF BEGINNING.

e. Southwestern Glades County (see Figure 20-5).

BEGINNING at the Southwest corner of Section 31, Township 42 South, Range 28 East; Thence, Northerly along the Section lines to the Northwest corner of Section 6, Township 42 South, Range 28 East; Thence, Easterly along the Section lines to the Northeast corner of Section 1, Township 42 South, Range 29 East; Thence, Southerly along the Section lines to the Southeast corner of Section 36, Township 42 South, Range 29 East; Thence, Westerly along the Section lines to the Southwest corner of Section 33, Township 42 South, Range 29 East; Thence, Northerly along the Section lines to the Northwest corner of said Section 33; Thence, Westerly along the Section lines to the Northeast corner of the West one-half of Section 31, Township 42 South, Range 29 East; Thence, Southerly along the North/South quarter line to the intersection thereof with the South line of said Section 31; Thence, Westerly along the Section lines to the POINT OF BEGINNING.

f. Northwestern Hendry County (see Figure 20-6).

BEGINNING at the Northwest corner of Section 6, Township 43 South, Range 28 East; Thence, Southerly along the Section lines to the Southwest corner of Section 31, Township 43 South, Range 28 East; Thence, Easterly along the Section lines to the Southeast corner of Section 36, Township 43 South, Range 29 East; Thence, Northerly along the Section lines to the Northeast corner of Section 1, Township 42 South, Range 29 East; Thence, Westerly along the Section lines to the Southwest corner of Section 33, Township 42 South, Range 29 East; Thence, Northerly along the Section line to the Northwest corner of said Section 33; Thence, Westerly along the Section lines to the Northwest corner of the East one-half of Section 32, Township 42 South, Range 29 East; Thence, Southerly along the North/South quarter line to the intersection thereof with the South line of said Section 32; Thence, Westerly along the Section lines to the POINT OF BEGINNING.

g. The Savarnas and Jensen Beach Peninsula (see Figure 20-7).

BEGINNING at the Northwest corner of Section 18, Township 37 South, Range 41 East; Thence, Northerly along the Section lines to the Southeast corner of Section 36, Township 36 South, Range 40 East; Thence, Westerly along the Section line to the Southwest corner of said Section 36; Thence, Northerly along the Section lines to the Southeast corner of Section 23, Township 36 South, Range 40 East; Thence, Westerly along the Section line to the Southwest corner of said Section 23; Thence, Northerly along the Section lines to the Southeast corner of Section 10, Township 36 South, Range 40 East; Thence, Westerly along the Section line to the Southwest corner of said Section 10; Thence, Northerly along the Section lines to the Northwest corner of Section 15, Township 35 South, Range 40 East; Thence, Easterly along the Section line to the intersection thereof with the Westerly shore line of the Indian River; Thence, Southeasterly along said shore line to the intersection thereof with the St. Lucie River; Thence, Northwesterly and Westerly along the Northerly shore line of the St. Lucie River to the intersection thereof with the West line of Section 30, Township 37 South, Range 41 East; Thence Northerly along the Section lines to the POINT OF BEGINNING.

h. Coastal Juno Beach (See Figure 20-8)

BEGINNING at the intersection of the centerline of Old Dixie Highway (Alternate A1A) with the centerline of PGA Boulevard in Section 6, Township 42 South, Range 43 East; Thence, Northerly, along said centerline of Old Dixie Highway, to the intersection thereof with the centerline of the Loxahatchee River; Thence, Easterly, along said centerline and the centerline of the Jupiter Inlet, to the Westerly shoreline of the Atlantic Ocean; Thence Southerly, along said shoreline, to the intersection thereof with the South line of Section 3, Township 42 South, Range 43 East; Thence, Westerly, along said Section line and along the South line of Section 4, Township 42 South, Range 43 East, to the intersection thereof with the centerline of U. S. Highway 1 (State Road 5); Thence, Northerly, along said centerline, to the intersection thereof with the centerline of PGA Boulevard; Thence, Westerly, along said centerline, to the POINT OF BEGINNING.

2. 100,000 gallons per day within the remainder of the District.

(2) Persons using or withdrawing water in conjunction with oil well drilling within Lee, Collier and Hendry Counties qualify for a general permit under the following conditions:

(a) the maximum daily groundwater pumpage does not exceed 0.7 million gallons for any one oil drilling site;

(b) the maximum total installed capacity does not exceed 1000 gallons per minute for any one oil drilling site; and

(c) the person has received a Department of Natural Resources permit, a Department of Environmental Regulation water quality certificate or waiver, if required, and the approval of the Big Cypress Advisory Committee, if required, for the proposed site.

Specific Authority 373.044, 373.113 F.S.
Law Implemented 373.103(4), 373.219, 373.223 F.S.
History - New 9-3-81, Amended 12-1-82.
Formerly 16K-2.031(1), 16K-2.032(1)(b)

40E-20.321 Duration of Permit.

(1) The duration of the general permit authorized in subsection 40E-20.302(1) shall be 20 years, determined as follows:

(a) for uses in existence on January 29, 1979, the 20 year period begins on that date,

(b) for uses not in existence on January 29, 1979, the 20 year period begins with the date of

filing of the Notice of Intent required in paragraph 40E-20.112(1)(a).

(2) The duration of the general permit authorized in subsection 40E-20.302(2) shall be from the date of first withdrawal until completion of the oil well drilling activities at the site or the expiration of the Department of Natural Resources permit for that site, which ever occurs last.

(3) Extension of time may be granted by the District upon written request.

Specific Authority 373.044, 373.113 F.S.

Law Implemented 373.236 F.S.

History—New 9-3-81.

Formerly 16K-2.031(2)(j), 16K-2.032(2)(d)

40E-20.341 Revocation of Permits.

Violations of this chapter may result in the revocation or suspension of the authorization in whole or in part in accordance with the provisions of section 373.243 and chapter 120 Florida Statutes and rule 40E-1.609.

Specific Authority: 373.044, 373.113 F.S.

Law Implemented 120.60(6), 373.103(4), 373.219, 373.229 F.S.

History—New 9-3-81.

Formerly 16K-2.031(5), 16K-2.032(5)

40E-20.351 Transfer of Permits.

Transfer of permits shall be made in accordance with rule 40E-2.351.

Specific Authority 373.044, 373.113 F.S.

Law Implemented 373.223, 373.229, 373.239 F.S.

History—New 12-1-82.

40E-20.381 Limiting Conditions.

All general permits authorized in this chapter shall be subject to the following limiting conditions:

(1) A drillers log shall be furnished to the District within 30 days of completion of each new well. The log shall show total depth and casing depth.

(2) Permittee shall supply the District with drill cuttings from one water well. The cuttings shall be from every 10 foot interval or every formation change, whichever comes first. Cuttings shall be delivered to the District within six months of completion of the well. The general permit number and well location information shall accompany the cuttings.

(3) A specific capacity test shall be performed on one water well and the data provided to the District within six months of well completion.

(4) If the permitted use is located within one mile of a brackish or salt water body of water then within 15 days after each well has been placed in service, a sample of water shall be taken and submitted to an independent laboratory for chemical analysis for chloride ion concentration. The results of the analysis shall be provided to the District within six months of well completion.

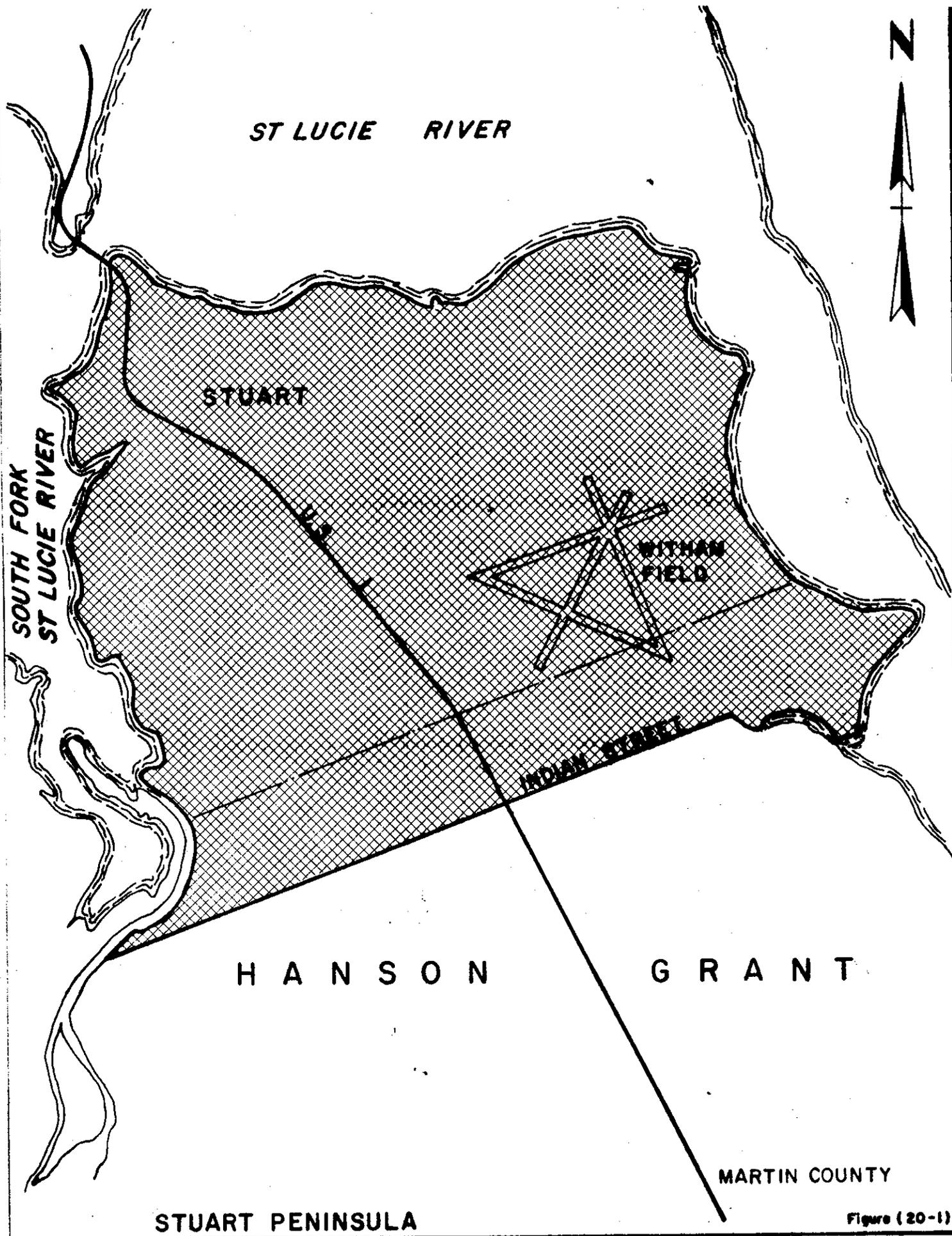
(5) The general water use permit shall be subject to other reasonable conditions as are necessary to assure that the permitted uses are reasonable-beneficial uses, do not interfere with presently existing legal uses of water and are consistent with the public interest.

Specific Authority 373.044, 373.113 F.S.

Law Implemented 373.219, 373.223 F.S.

History—New 9-3-81.

Formerly 16K-2.031(2), 16K-2.032(2)



ST LUCIE RIVER

STUART

SOUTH FORK
ST LUCIE RIVER

WITHAM
FIELD

INDIAN FOREST

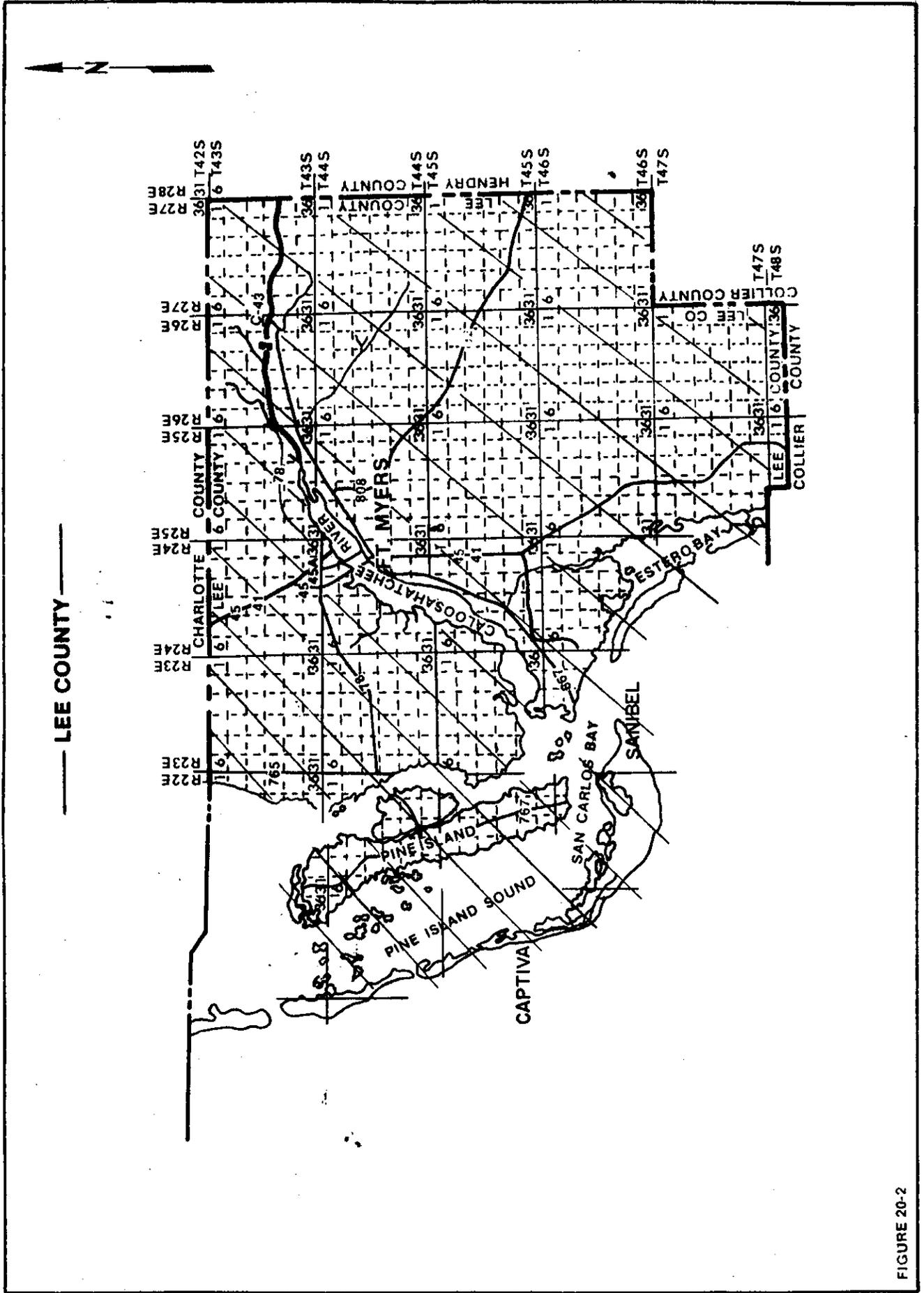
H A N S O N

G R A N T

MARTIN COUNTY

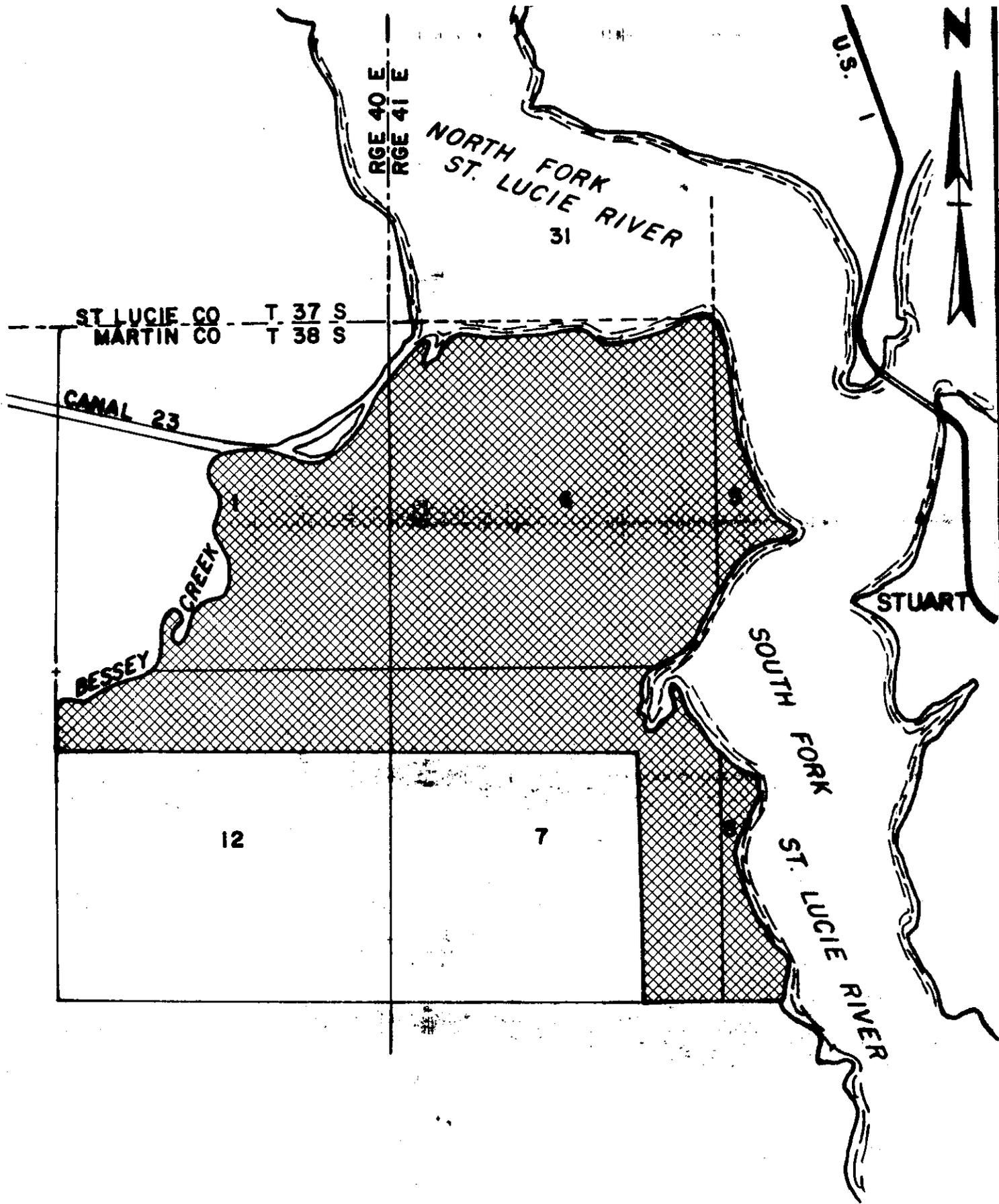
STUART PENINSULA

Figure (20-1)



— LEE COUNTY —

FIGURE 20-2



LIGHTHOUSE POINT PENINSULA

Figure (20-3)

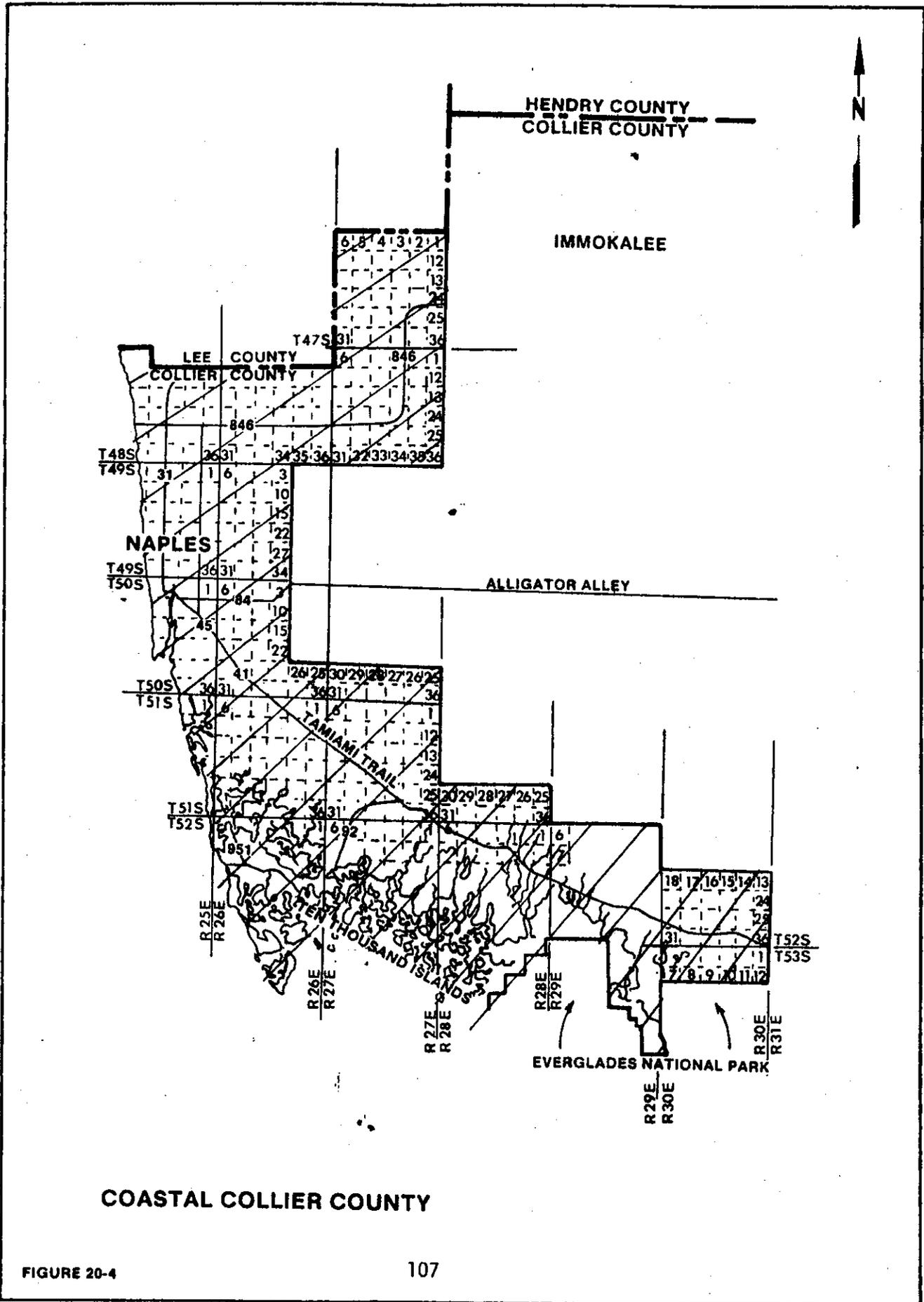


FIGURE 20-4

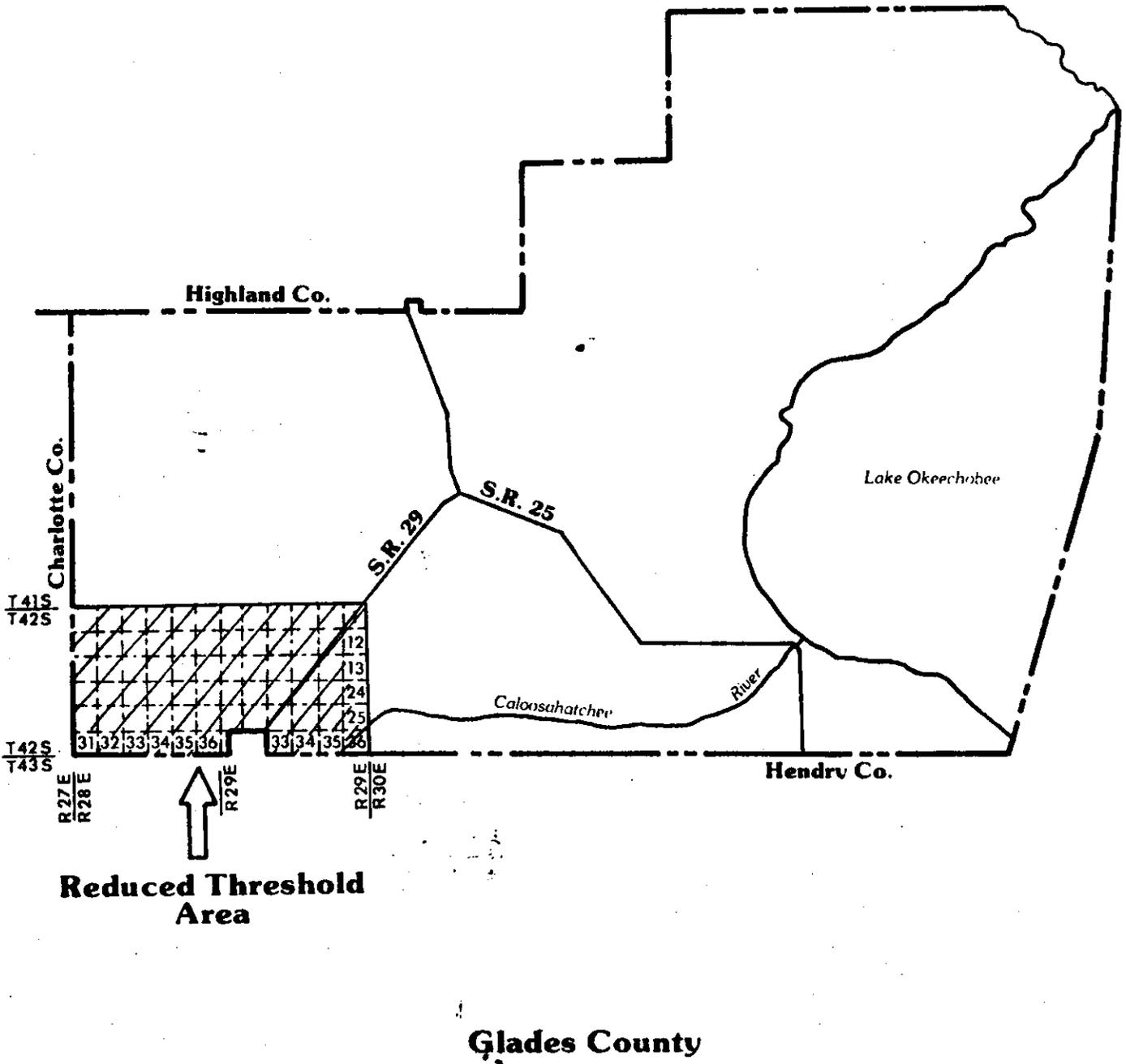
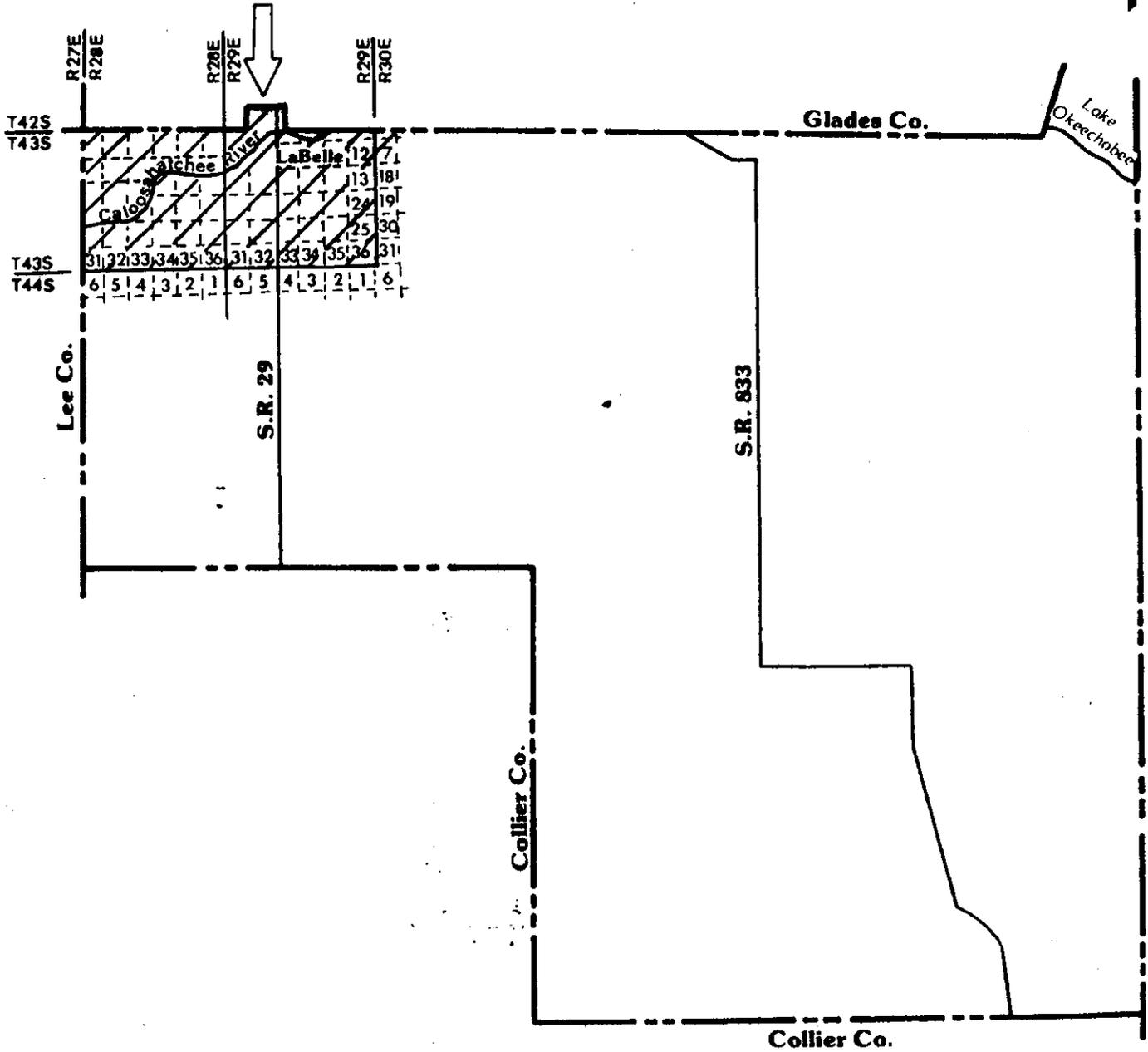


Figure 20-5

Reduced Threshold Area



HENDRY COUNTY

Figure 20-6

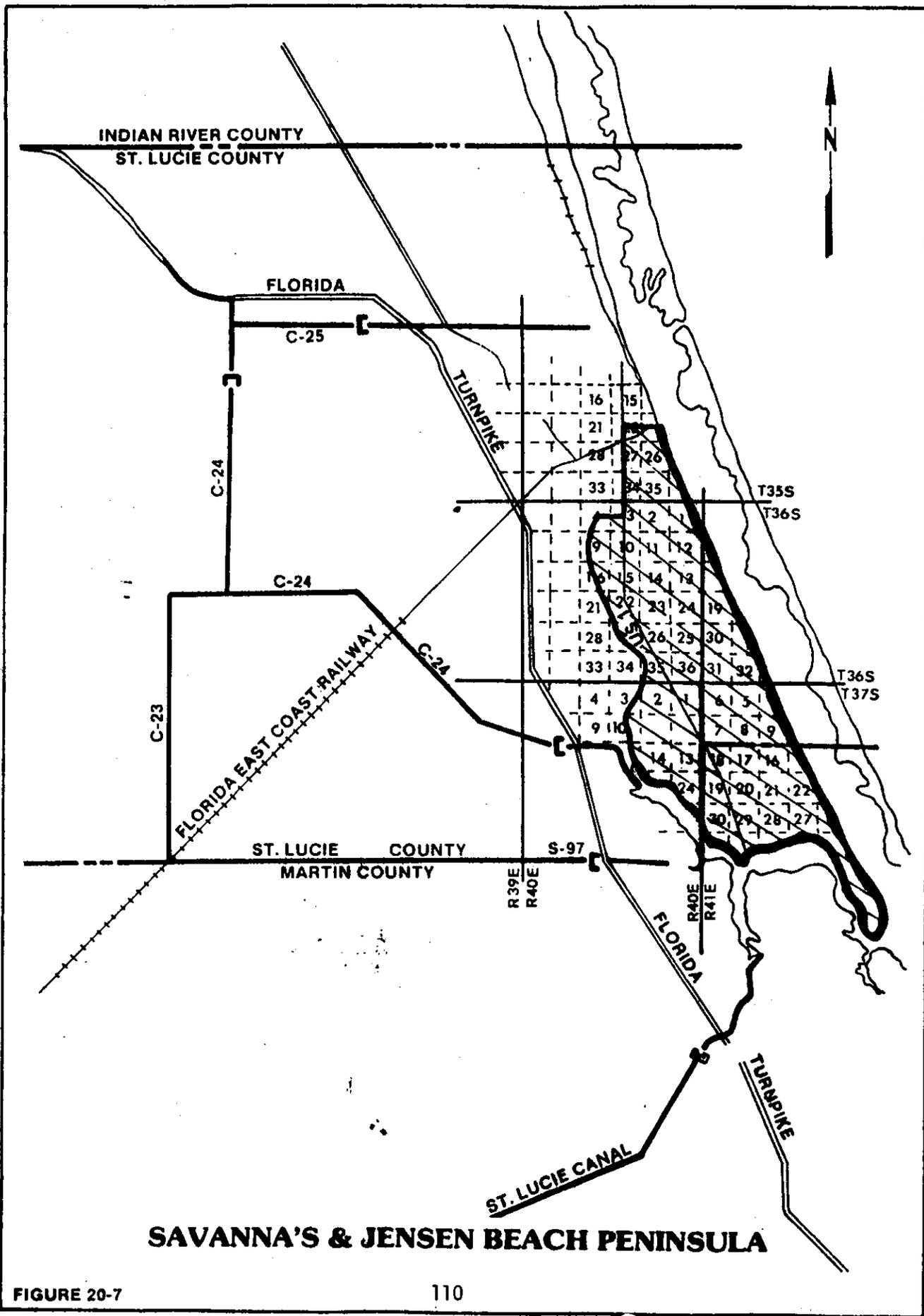


FIGURE 20-7

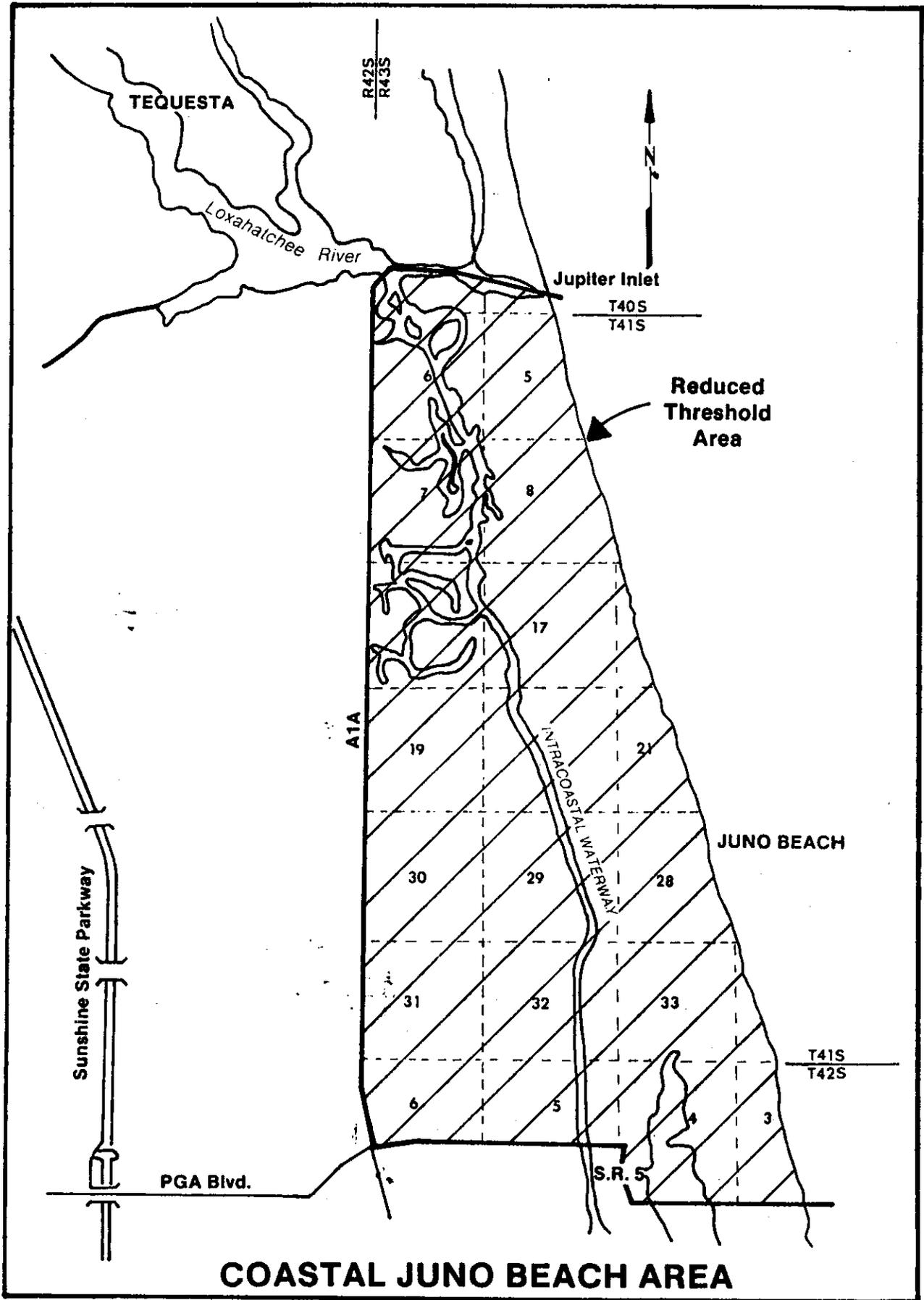


FIG. 20-8

**RULES
OF THE
SOUTH FLORIDA WATER MANAGEMENT DISTRICT
CHAPTER 40E-22
REGIONAL WATER SHORTAGE PLANS**

Part I Lake Istokpoga - Indian Prairie Area

- 40E-22.011 Policy and Purpose
- 40E-22.061 Indian Prairie Basin Boundary
- 40E-22.072 Minimum Levels
- 40E-22.082 Minimum Flows
- 40E-22.112 Permit Classification
- 40E-22.122 Termination of Withdrawals
- 40E-22.132 Water Use Restrictions

Part II St. Lucie County Agricultural Area

- 40E-22.212 Policy and Purpose
- 40E-22.222 St. Lucie County Agricultural Area Boundary
- 40E-22.232 Minimum Levels
- 40E-22.242 Minimum Flows
- 40E-22.252 Permit Classification
- 40E-22.262 Termination of Withdrawals
- 40E-22.272 Water Use Restrictions

40E-22.011 Policy and Purpose.

This part establishes minimum water levels for Lake Istokpoga and the canals within the Indian Prairie basin, minimum flows for the canals within the Indian Prairie basin and Arbuckle Creek and Josephine Creek and a permit classification system and water shortage plan for the Lake Istokpoga-Indian Prairie area. The rules in this part apply to water withdrawals from Lake Istokpoga and the Indian Prairie basin.
 Specific Authority 373.044, 373.113 F.S.
 Law Implemented 373.042, 373.066, 373.103(4), 373.175, 373.246 F.S.
 History—New 9-3-81.
 Formerly 16K-30.01

**40E-22.061 Indian Prairie Basin Boundary.
(See Figure 22-1)**

The Indian Prairie basin includes the areas within the following boundaries: Begin at the Northeast corner of Section 1, Township 38 South, Range 33 East, in the North boundary line of Glades County; thence, southwesterly, to the Southwest corner of the Northwest one-quarter of said Section 1; thence, southerly, along the West line of Sections 1 and 12, Township 38 South, Range 33 East, to the Northwest corner of Section 13, Township 38 South, Range 33 East; thence, southeasterly, to the Southeast corner of said Section 13; thence, southeasterly, to the Southeast corner of Section 19, Township 38 South, Range 34 East; thence, southerly, to the intersection thereof with the southerly right of way line of South Florida Water Management District Levee 59; thence, southwesterly, along the southeasterly right of way lines of South Florida Water Management District Levees 59, 60 and 61, to the intersection thereof with the southerly right of way line of South Florida Water Management District Levee 50; thence, westerly and northerly, along said right of way line and its northerly extension, to the intersection thereof with the North line of Section 2, Township 40 South, Range 31 East; thence, westerly, along the Section line, to the Southwest corner of Section 35, Township 39 South, Range 31 East; thence, northerly, along the Section line, to the Northwest corner of said Section 35; thence, northwesterly, to the Northwest corner of Section 27, Township 39 South, Range 31 East; thence, northwesterly to the Northwest corner of Section 21, Township 39 South, Range 31 East; thence, westerly, along the Section line, to the Southwest corner of Section 17, Township 39 South, Range 31 East, thence, northwesterly, to the Southeast corner of the Southwest one-quarter of Section 7, Township 39

South, Range 31 East; thence, northwesterly, to the Northwest corner of the Southwest one-quarter of said Section 7 in the boundary line between Glades and Highlands Counties; thence, northwesterly, to the Southwest corner of the Southeast one-quarter of Section 1, Township 39 South, Range 30 East; thence Northerly to the Northwest corner of the Northeast one-quarter of said Section 1; thence, northwesterly, to the Southeast corner of the North one-half of Section 35, Township 38 South, Range 30 East; Thence, Westerly, along the South line of the North one-half of said Section 35 to the Southwest corner of the East one-half of the Northwest one-quarter of said Section 35 and the Westerly boundary of the South Florida Water Management District; Thence, along the following three courses, being the Westerly boundary of said South Florida Water Management District; 1) Thence, Northerly along the West line of the East one-half of the West one-half of Sections 35, 26, and 23, Township 38 South, Range 30 East, to the Northwest corner of the East one-half of the West one-half of said Section 23; 2) Thence, Westerly along the Section line to the Southwest corner of Section 14, Township 38 South, Range 30 East; 3) Thence, Northerly along the West line of Sections 14, 11 and 2, Township 38 South, Range 30 East, and Sections 35, 26, 23, 14, 11 and 2, Township 37 South, Range 30 East, to the intersection thereof with the center line of State Road 621; thence, easterly, northerly and northeasterly, along said centerline, to the intersection thereof with the North line of the South one-half of Section 10, Township 36 South, Range 31 East; thence, easterly to the Northeast corner of the South one-half of said Section 10, thence, easterly, to the Northwest corner of the South one-half of Section 12, Township 36 South, Range 31 East; thence, easterly, to the Northeast corner of the South one-half of said Section 12; thence, southerly, along the Range line between Ranges 31 and 32 to the Northwest corner of Section 6, Township 37 South, Range 32 East; thence, easterly, along the Township line between Townships 36 and 37, to the Northwest corner of Section 5, Township 37 South, Range 33 East; thence, southeasterly, to the Southeast corner of said Section 5; thence, southerly, along the Section line, to the Northwest corner of Section 16, Township 37 South, Range 33 East; thence, southeasterly, to the Southeast corner of said Section 16; thence, southeasterly, to the Northeast corner of the Southwest one-quarter of Section 22, Township 37

South, Range 33 East; thence, southerly, to the Southeast corner of the Southwest one-quarter of said Section 22; thence, southerly, to the Northwest corner of Northeast one-quarter of Section 34, Township 37 South, Range 33 East; thence, easterly, along the North line of Section 34 and 35, Township 37 South, Range 33 East, to the Northeast corner of said Section 35; thence, southeasterly, to the point of intersection of the South right of way line of South Florida Water Management District Canal 41-A and the East line of Section 36, Township 37 South, Range 33 East; thence, southerly, along the Section line, to the POINT OF BEGINNING.

Specific Authority 373.044, 373.113 F.S.
 Law Implemented 373.103, 373.175, 373.246 F.S.
 History—New 9-3-81.
 Formerly 16K-30.02

40E-22.072 Minimum Levels.

The following minimum levels shall be maintained.

- (1) Lake Istokpoga
 - (a) The minimum levels for Lake Istokpoga are shown in Figure 22-2.
 - (b) The District may, after public notice, allow the minimum levels in Figure 22-2 to be temporarily lowered for environmental or water quality reasons.
- (2) Primary Canals (feet above mean sea level)
 - (a) Canal 39-A above Structure 75 22.5
 - (b) Canal 40 above Structure 72 17.7
 - (c) Canal 41 above Structure 71 17.0
 - (d) Canal 41 above Structure 70 22.5
 - (e) Canal 41-A above Structure 84 21.7
 - (f) Canal 41-A above Structures 82 and 83 29.0
 - (g) Borrow Canal of Interceptor Levee 59 17.7
 - (h) Borrow Canal of Interceptor Levee 60 17.7
 - (i) Borrow Canal of Interceptor Levee 61 17.0

Specific Authority 373.044, 373.113 F.S.

Law Implemented 373.042, 373.086, 373.103(4) F.S.
 History—New 9-3-81.
 Formerly 16K-30.03, 16K-30.05

40E-22.082 Minimum Flows.

The following minimum monthly flows shall be maintained:

(1) Canals 39-A, 40, 41 and 41-A

(a) The monthly sum of the discharges at Structures 71, 72, 84, 127, 129, and 131 shall not be less than:

MONTH	MINIMUM FLOW (in acre-feet)
January	220
February	650
March	800
April	540
May	440
June	6500
July	5800
August	5500
September	6100
October	9200
November	1600
December	360

(b) If Lake Istokpoga is at or below its minimum level, no releases will be made for the sole purpose of maintaining the minimum flows established in this subsection.

(2) Arbuckle Creek

(a) The monthly discharge measured at U. S. Highway Number 98 shall not be less than:

MONTH	MINIMUM FLOW (in acre-feet)
January	9,025
February	9,025
March	9,025
April	7,790
May	5,510
June	8,550
July	19,000
August	26,600
September	27,550
October	28,500
November	11,400
December	7,790

(3) Josephine Creek

(a) The monthly discharge measured at State Road Number 17 shall not be less than:

MONTH	MINIMUM FLOW (in acre feet)
January	1,995
February	1,995
March	1,995
April	1,615
May	1,045
June	2,090
July	4,275
August	5,795
September	8,075
October	6,365
November	2,945
December	2,280

Specific Authority 373.044, 373.113 F.S.
 Law Implemented 373.042, 373.086, 373.103(4) F.S.
 History—New 9-3-81.
 Formerly 16K-30.04, 16K-30.06

40E-22.112 Permit Classification.

(1) Water use permits will be classified by source and use within the following areas:

(a) all lands receiving water from Lake Istokpoga including the Lake Istokpoga Canal between Lake Istokpoga and the Lake Istokpoga canal structure;

(b) all lands within the Indian Prairie basin as defined in rule 40E-22.062;

(c) all lands receiving water from the borrow canals of Interceptor Levees 59, 60 and 61.

(2) Source Classification.

(a) The following waters shall be classified "S":

1. Lake Istokpoga including the Lake Istokpoga Canal between Lake Istokpoga and the Lake Istokpoga canal structure;

2. Canals 39-A, 40, 41 and 41-A;

3. The borrow canals of Interceptor Levees 59, 60 and 61;

4. Any ditches and canals connecting with the facilities listed in subparagraphs 1., 2. or 3.

(b) The portion of the water table aquifer lying within 2,000 feet of the following waters shall be classified "G-1":

1. The shore line of Lake Istokpoga, including the Lake Istokpoga Canal between Lake Istokpoga and the Lake Istokpoga canal structure;

2. Canals 39-A, 40, 41 and 41-A;

3. The borrow canals of Interceptor Levees 59, 60 and 61;

4. Any ditch or canal connecting with Canals 39-A, 40, 41 and 41-A or the borrow canals of Interceptor Levees 59, 60 and 61 and with a depth below ground level in excess of 15 feet.

(c) The water table aquifer within areas specified in subsection (1), other than that portion of the aquifer described in paragraph (2)(b), shall be classified "G-2".

(d) The water body that has the generic name "Floridan Aquifer" (Artesian) shall be classified "G-3".

(3) Use Classification A11 uses shall be classified as provided in rule 40E-2.501.

Specific Authority 373.044, 373.113 F.S.

Law Implemented 373.246 F.S.

History--New 9-3-81.

Formerly 16K-30.07

Specific Authority 373.044, 373.113 F.S.
Law Implemented 373.119, 373.175, 373.246 F.S.
History--New 9-3-81, Amended 7-4-82.
Formerly 16K-30.09

40E-22.122 Termination of Withdrawals.

Upon notice from the District, water withdrawals under permits having source classification "S" shall be terminated when any of the minimum levels specified in rule 40E-22.072 is reached.

Specific Authority 373.044, 373.113 F.S.

Law Implemented 373.086, 373.103(4), 373.246 F.S.

History--New 9-3-81.

Formerly 16K-30.08

40E-22.132 Water Use Restrictions.

(1) The Water Shortage Plan in this section establishes the water use restrictions to be followed when the Board declares a water shortage within the Lake Istokpoga-Indian Prairie area. The restrictions are intended to insure that established minimum flows and levels within the area are maintained and that the water resources within the area do not suffer serious harm.

(2) If the Board declares a water shortage pursuant to rule 40E-21.231 or the Executive Director with the advice and concurrence of the Board declares a water shortage emergency pursuant to rule 40E-21.331 within the Lake Istokpoga-Indian Prairie Area, then uses from the affected source classes, shall be restricted pursuant to rule 40E-21.271 or rule 40E-21.371 respectively.

PART II

ST. LUCIE COUNTY AGRICULTURAL AREA

40E-22.212 Policy and Purpose.

This part establishes minimum flows and levels for Canals 23, 24 and 25 and a permit classification system for the St. Lucie County Agricultural Area. The rules in this part apply to water withdrawals within the St. Lucie County Agricultural Area and water withdrawals from Canal 25 below Structure 99.

Specific Authority 373.044, 373.113 F.S.

Law Implemented 373.042, 373.086, 373.103(4), 373.175, 373.246 F.S.

History—New 9-3-81.

Formerly 16K-31.01

40E-22.222 St. Lucie County Agricultural Area Boundary. (See Figure 22-3)

The St. Lucie County Agricultural Area includes the area within the following boundaries:

BEGINNING at the Northeast corner of Section 1, Township 34 South, Range 38 East thence, Southerly along the East line of Sections 1, 12 and 13, Township 34 South, Range 38 East, to the Northwest corner of the Southwest one-quarter of Section 18, Township 34 South, Range 39 East; thence, Easterly to the Northeast corner of the Southwest one-quarter of said Section 18; thence, Southerly along the East line of the West one-half of Sections 18, 19, 30 and 31, Township 34 South, Range 39 East, and Sections 6 and 7, Township 35 South, Range 39 East, to the Northwest corner of the Southeast one-quarter of said Section 7; thence, Easterly to the Northeast corner of the Southeast one-quarter of said Section 7; thence, Southerly to the Southeast corner of the Southeast one-quarter of said Section 7; thence, Easterly to the Northeast corner of the West one-half of Section 17, Township 35 South, Range 39 East; thence, Southerly along the East line of the West one-half of Sections 17 and 20, Township 35 South, Range 39 East, to the Southeast corner of the West one-half of said Section 20; thence, Easterly to the Northeast corner of Section 29, Township 35 South, Range 39 East; thence, Southerly along the East line of Sections 29 and 32, Township 35 South, Range 39 East, and Section 5, Township 36

South, Range 39 East, to the Southeast corner of said Section 5; thence, Westerly along the South line of Sections 5 and 6, Township 36 South, Range 39 East, to the Northeast corner of the West one-half of Section 7, Township 36 South, Range 39 East; thence, Southerly along the East line of the West one-half of Sections 7 and 18, Township 36 South, Range 39 East, to the Northwest corner of the Northeast one-quarter of Section 19, Township 36 South, Range 39 East; thence, Easterly along the North line of Sections 19, 20, 21 and 22, Township 36 South, Range 39 East, to the Northeast corner of said Section 22; thence, Southerly, along the East line of Sections 22 and 27, Township 36 South, Range 39 East, to the Southeast corner of said Section 27; thence, Southeasterly to the Northeast corner of Section 2, Township 37 South, Range 39 East; thence, Southerly along the East line of Sections 2, 11, 14, 23, 26 and 35, Township 37 South, Range 39 East, to the Southeast corner of said Section 35 in the boundary line between St. Lucie County and Martin County; thence, continue Southerly along the East line of Sections 2, 11 and 14, Township 38 South, Range 39 East, to the Southeast corner of said Section 14; thence, Westerly along the South line of Sections 14, 15, 16, 17 and 18, Township 38 South, Range 39 East, Sections 13, 14, 15, 16, 17 and 18, Township 38 South, Range 38 East and Section 13, Township 38 South, Range 37 East to the Southwest corner of Section 13, Township 38 South, Range 37 East; thence, Northerly along the West line of said Section 13, to the Northwest corner of said Section 13; thence, Westerly along the South line of Sections 11 and 10, Township 38 South, Range 37 East to the Southwest corner of said Section 10; thence, Northerly along the West line of Sections 10 and 3, Township 38 South, Range 37 East to the Northwest corner of said Section 3 in the boundary line between Martin County and St. Lucie County; thence, continue Northerly along the West line of Section 34, Township 37 South, Range 37 East, to the Southeast corner of Section 28, Township 37 South, Range 37 East; thence, Westerly along the South line of said Section 28, to the Southwest corner of said Section 28; thence, Northerly along the West line of Sections 28, 21 and 16, Township 37 South, Range 37 East, to the Northwest corner of said Section 16; thence, Westerly along the South line of Sections 8 and 7, Township 37 South, Range 37 East, to the Southwest corner of said Section 7 in the boundary line between St. Lucie County and

Okeechobee County; thence, Northerly along said boundary line, also being the West line of said Section 7, to the Southeast corner of Section 1, Township 37 South, Range 36 East; thence, Westerly along the South line of Sections 1 and 2, Township 37 South, Range 36 East, to the Southwest corner of said Section 2; thence, Northerly, along the West line of said Section 2 and along the West line of Section 35, Township 36 South, Range 36 East, to the Southeast corner of Section 27, Township 36 South, Range 36 East; thence, Northwesterly to the Southwest corner of Section 22, Township 36 South, Range 36 East; thence, Northerly along the West line of said Section 22, to the Southeast corner of Section 16, Township 36 South, Range 36 East; thence, Northwesterly to the Southeast corner of Section 8, Township 36 South, Range 36 East; Thence, Westerly along the South line of said Section 8, to the Southwest corner of said Section 8; thence, Northerly along the West line of Sections 8 and 5, Township 36 South, Range 36 East, to the Northwest corner of said Section 5; thence, Northwesterly to the Southeast corner of Section 25, Township 35 South, Range 35 East; thence, Westerly along the South line of said Section 25, to the Southwest corner of the East one-half of said Section 25; thence, Northerly along the West line of the East one-half of Sections 25, 24 and 13, Township 35 South, Range 35 East, to the Southeast corner of the Northwest one-quarter of said Section 13; thence, Westerly along the South line of the North one-half of Sections 13 and 14, Township 35 South, Range 35 East, to the Southwest corner of the North one-half of said Section 14; thence, Northerly along the West line of Sections 14, 11, and 2, Township 35 South, Range 35 East, to the Northwest corner of said Section 2 and the Northerly boundary of the South Florida Water Management District; Thence, along the following 9 courses, being the Northerly boundary of said South Florida Water Management District; 1) Thence, Easterly along the North line of said Section 2 to the Southwest corner of Section 36, Township 34 South, Range 36 East; 2) Thence, Northerly along the West line of Sections 36, 25, 24 and 13, Township 34 South, Range 35 East, to the Northwest corner of said Section 13; 3) Thence, Easterly along the North line of said Section 13 to the Northeast corner of said Section 13 and the Range line between Ranges 35 and 36 East; 4) Thence, Northerly along said Range line to the Northwest corner of Section 18, Township 34 South, Range 36 East; 5) Thence,

Easterly along the North line of Sections 18, 17 and 16, Township 34 South, Range 36 East, to the Southwest corner of Section 10, Township 34 South, Range 36 East; 6) Thence, Northerly along the West line of said Section 10 to the Northwest corner of said Section 10; 7) Thence, Easterly along the North line of Sections 10, 11 and 12, Township 34 South, Range 36 East, to the Northeast corner of said Section 12 and the Okeechobee-St. Lucie County Line; 8) Thence, Northerly along said County line to the South line of Indian River County; 9) Thence Easterly along the St. Lucie-Indian River County line to the POINT OF BEGINNING.

The above described parcel of land being situated in Martin, Okeechobee and St. Lucie Counties.

Specific Authority 373.044, 373.113 F.S.

Law Implemented 373.103, 373.175, 373.246 F.S.

History--New 9-3-81.

Formerly 16K-31.02

40E-22.232 Minimum Levels.

The following minimum levels shall be maintained :

CANAL level)	LEVEL (feet above mean sea
(a) Canal 23 above Structure 97	14.0
(b) Canal 23 between Structure 48 and Structure 97	4.0
(c) Canal 24 above Structure 49	14.0
(d) Canal 25 above Structure 99	14.0
(e) Canal 25 between Structure 50 and Structure 99	8.0

Specific Authority 373.044, 373.113 F.S.

Law Implemented 373.042, 373.086, 373.103(4) F.S.

History--New 9-3-81.

Formerly 16K-31.04

40E-22.242 Minimum Flows.

(1) The following minimum monthly flows shall be maintained:

(a) The monthly discharge at Structure 48 shall not be less than:

MONTH	MINIMUM FLOW (in acre-feet)
January	292
February	329
March	365
April	219
May	401
June	1,168
July	1,533
August	1,533
September	1,680
October	2,118
November	694
December	292

(b) The monthly discharge at Structure 49 shall not be less than:

MONTH	MINIMUM FLOW (in acre-feet)
January	439
February	319
March	319
April	280
May	439
June	1,636
July	998
August	1,636
September	1,277
October	1,636
November	430
December	240

(c) The monthly discharge at Structure 50 shall not be less than:

MONTH	MINIMUM FLOW (in acre-feet)
January	480
February	400
March	560
April	520
May	440
June	1,279
July	1,639
August	1,399
September	1,199
October	1,679
November	1,439
December	399

(2) If Canal 23, 24, or 25 is at or below the following levels the minimum flow requirement for that canal will be suspended until the canal exceeds these levels:

(a) Dry Season (October 15 through May 14)

CANAL	LEVEL (feet above mean sea level)
C-23 above Structure 97	23.2
C-24 above Structure 49	21.2
C-25 above Structure 99	21.2

(b) Wet Season (May 15 through October 14)

CANAL	LEVEL (feet above mean sea level)
C-23 above Structure 97	22.2
C-24 above Structure 49	20.2
C-25 above Structure 99	20.2

Specific Authority 373.044, 373.113 F.S.
Law Implemented 373.042, 373.086, 373.103(4) F.S.
History--New 9-3-81.
Formerly 16K-31.03

40E-22.252 Permit Classification.

(1) Water Use Permits will be classified by source and use.

(2) Source Classification:

(a) Canals 23, 24 or 25 and all ditches and canals connecting with Canals 23, 24 or 25 shall be given a source classification of "S".

(b) The portion of the water table aquifer lying within 2,000 feet of the following waters shall be classified "G-1":

1. The centerline of Canals 23, 24 or 25;
2. Any ditch or canal connecting with Canals 23, 24 or 25 and with a depth below ground level in excess of 15 feet.

(c) The portion of the water table aquifer other than that described in paragraph (b) shall be classified "G-2".

(d) The water body that has the generic name "Floridan Aquifer" (Artesian) shall be classified "G-3".

(3) Use Classification All uses, shall be classified as provided in rule 40E-2.501.
Specific Authority 373.044, 373.113 F.S.
Law Implemented 373.246 F.S.
History--New 9-3-81.
Formerly 16K-31.05

District may, upon notice, initiate restrictions upon public supply uses which receive their water from the section of Canal 25 between Structure 99 and Structure 50. Restrictions shall remain in force until that section of Canal 25 rises above 8.0 feet above mean sea level and the District has given notice that withdrawals may be resumed.
Specific Authority 373.044, 373.113 F.S.
Law Implemented 373.086, 373.103(4), 373.246 F.S.
History--New 9-3-81.
Formerly 16K-31.07

40E-22.262 Termination of Withdrawals.

(1) Upon notice from the District, water withdrawals under permits having source classification "S" shall be terminated under the following conditions:

(a) For water withdrawals directly from either Canal 23, 24 or 25: when level in the primary canal from which water is being withdrawn reaches the minimum level set forth in rule 40E-22.242.

(b) For water withdrawals made from canals or ditches connecting with either Canal 23, 24 or 25: when the level in the connecting canal from which water is being withdrawn reaches an elevation of 14.0 feet mean sea level.

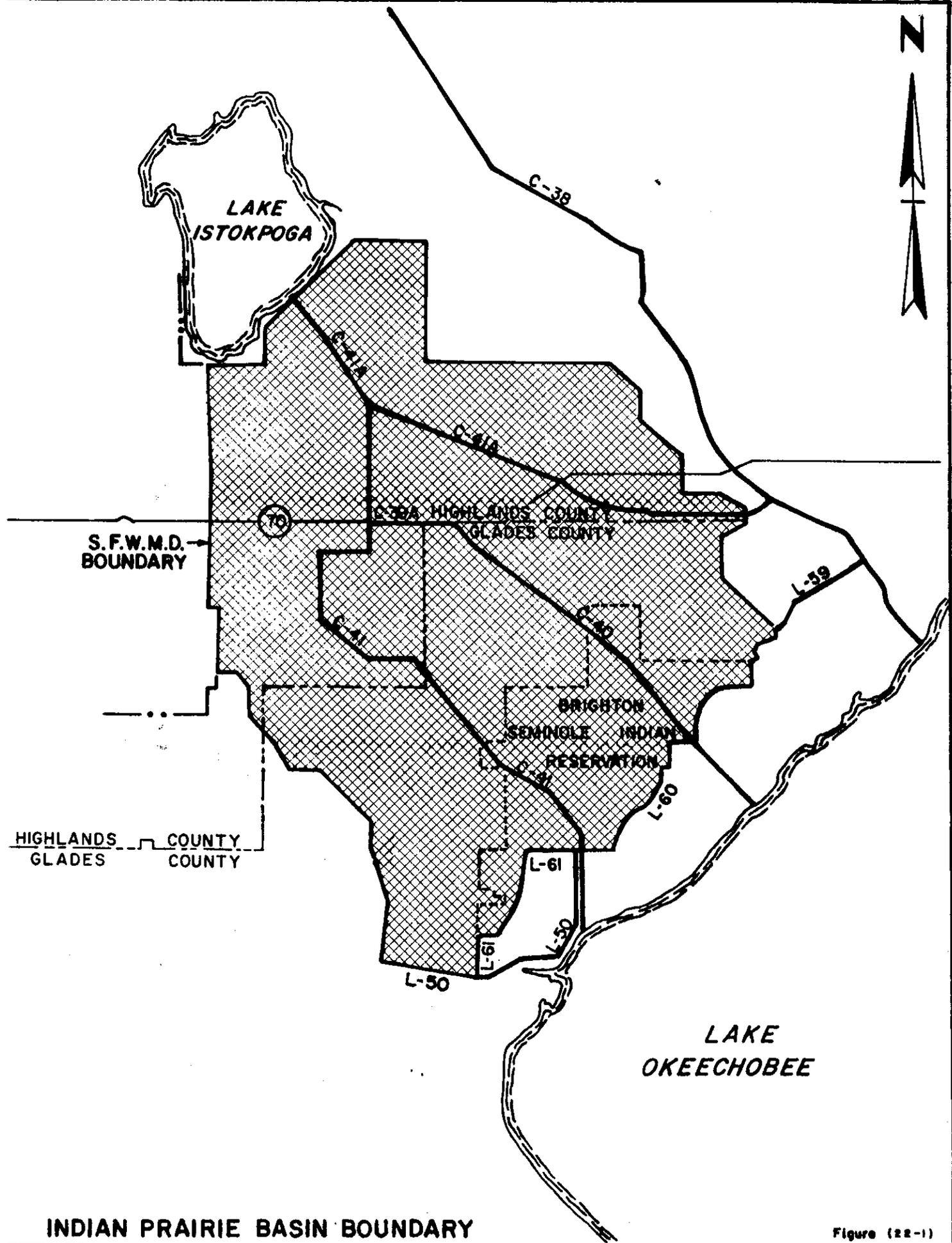
(2) The cessation of water withdrawals will remain in effect until the level in either the primary canal or the connecting canal rises above an elevation of 14.0 feet mean sea level and the District has notified permit holders that they may resume making withdrawals.

Specific Authority 373.044, 373.113 F.S.
Law Implemented 373.086, 373.103(4), 373.246 F.S.
History--New 9-3-81.
Formerly 16K-31.06

40E-22.272 Water Use Restrictions.

(1) When Canal 25 is less than 10.0 feet above mean sea level at Structure 50, the District may, upon notice, initiate restrictions upon agricultural, livestock, mining, industrial and recreational uses which receive their water from the section of Canal 25 between Structure 99 and Structure 50. Restrictions shall remain in force until that section of Canal 25 rises above 10.0 feet mean sea level and the District has given notice that withdrawals may be resumed.

(2) When Canal 25 is less than 8.0 feet above mean sea level at Structure 50, the



INDIAN PRAIRIE BASIN BOUNDARY

Figure (22-1)

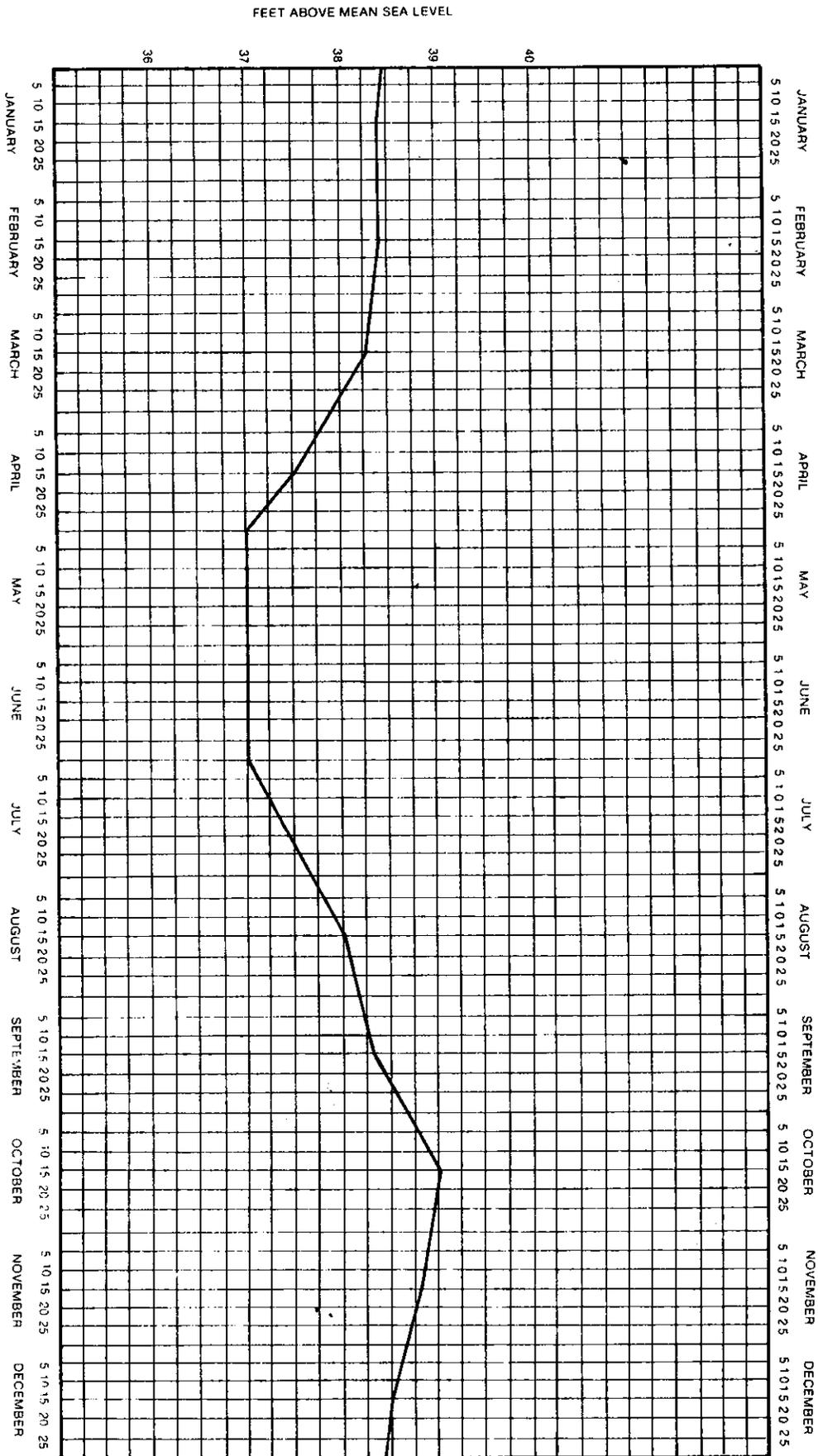
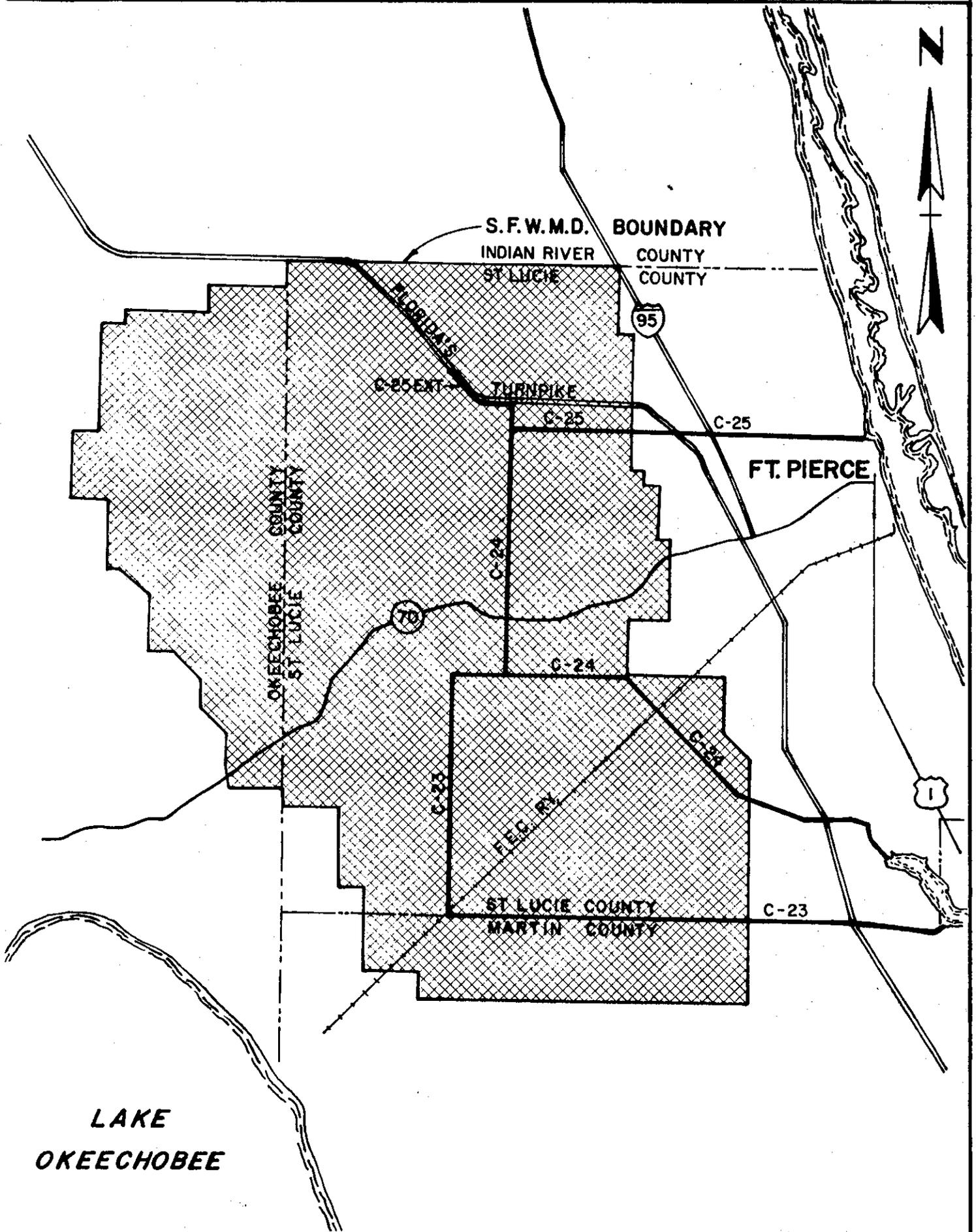


Figure 22-2 LAKE ISTOKPOGA MINIMUM LEVELS



ST LUCIE COUNTY AGRICULTURAL AREA

Figure (22-3)

RULES
OF THE
SOUTH FLORIDA WATER MANAGEMENT DISTRICT
CHAPTER 40E-40
GENERAL SURFACE WATER MANAGEMENT PERMITS

40E-40.011 Policy and Purpose
40E-40.021 Definitions
40E-40.031 Implementation
40E-40.042 General Permit for Construction,
Alteration or Operation of
Surface Water Management Systems
40E-40.112 Notice of Intent
40E-40.141 Request for Additional
Information
40E-40.302 Conditions for Issuance of
Authorization
40E-40.321 Duration of Permit
40E-40.331 Modification of Permits
40E-40.341 Revocation of Permits
40E-40.351 Transfer of Permits
40E-40.381 Limiting Conditions

40E-40.011 Policy and Purpose.

The rules in this chapter grant general permits for certain specified surface water management systems which have been determined to be not harmful to the water resources of the District and consistent with the objectives of the District. The purpose of this chapter is to set forth the requirements for qualifying for a general permit and the conditions under which it may be exercised. Non-exempt surface water management systems not qualifying for a general permit under this chapter are required to obtain individual permits. The District reserves the right to require an individual permit for any surface water management system which does not comply with the provisions of this chapter or which is harmful to the water resources of the District, interferes with the legal rights of others, is inconsistent with the overall objectives of the District, or is otherwise contrary to the public interest.

Specific Authority 373.044, 373.113 F.S.
Law Implemented 373.103(4), 373.413(1), 373.416,
373.419, 373.429 F.S.

History—New 9-3-81
Formerly 16K-4.021(1)(d), 16K-4.022(1)(e).

40E-40.021 Definitions.

As used in this chapter:

(1) "Public highway project" means a road and associated facilities located within a right of way dedicated to the public for highway purposes, which are constructed, altered, operated, maintained or funded by the United States, the State of Florida, a county, or municipality.

(2) "Total land area" means land holdings under common ownership which are contiguous or served by common surface water management facilities.

(3) "Surface water management permit", "letter of conceptual approval", "construction permit", "operation permit", "surface water management system" and "surface waters of the state" shall mean the same as defined in rule 40E-4.021.

Specific Authority 373.044, 373.113 F.S.

Law Implemented 373.103(1), 373.413, 373.416,
373.419, 403.031(3) F.S.

History—New 9-3-81, Amended 12-1-82.

40E-40.031 Implementation.

(1) This rule specifies the effective dates for the general surface water management permits granted in this chapter.

(2) If the surface water management system meets the conditions of subsections 40E-40.302(1) through (6), the effective date is July 15, 1981.

(3) If the surface water management system meets the conditions of subsection 40E-40.302(7), the effective date is December 1, 1982.

Specific Authority 373.044, 373.113 F.S.

Law Implemented 373.103(1), 373.416, 373.419 F.S.
History—New 9-3-81, Amended 12-1-82.

40E-40.042 General Permit for Construction, Alteration or Operation of Surface Water Management Systems.

(1) All persons constructing, altering, operating or maintaining surface water management systems who are not exempt under rule 40E-4.051 and who meet the conditions specified in rule 40E-40.302, are authorized to construct, alter, operate or maintain the surface water management system subject to the requirements of this chapter.

(2) All persons, constructing, altering, operating or maintaining surface water management systems which are discrete and independent phases of a project which has received conceptual approval, and which meet the criteria of the conceptual approval and otherwise satisfy the requirements of rule 40E-40.302, are authorized to construct, alter, operate or maintain the surface water management system subject to the requirements of the conceptual approval and this chapter.

(3) No construction, alteration, operation or maintenance shall be commenced until the permittee receives a written authorization to proceed from the District.

(4) The District shall issue the authorization to proceed within 60 days from the receipt of a complete Notice of Intent and all requested additional information.

Specific Authority 373.044, 373.113 F.S.
Law Implemented 120.60(2), 373.103(4), 373.416, 373.419 F.S.

History—New 9-3-81, Amended 12-1-82.
Formerly 16K-4.021(1), 16K-4.022(1)

40E-40.112 Notice of Intent.

At least 60 days prior to the commencement of any construction or alteration of a surface water management system authorized in rule 40E-40.042, the permittee shall file with the District, a written Notice of Intent to Construct Works Pursuant to General Permit. The notice shall include the following information:

- (1) the permittee's name and address;
- (2) a description of the proposed project, including:
 - (a) location,
 - (b) total acreage,
 - (c) number of dwelling units or square feet of commercial area,

(d) evidence from local government verifying zoning compatibility, and

(e) proposed minimum road and floor elevations.

(3) a description of the surface water management system to be constructed or altered including:

(a) acreage of impervious cover, and

(b) acreage of water management area;

(4) a statement of facts which show why the proposed surface water management system qualifies for a general permit;

(5) a statement that all necessary Federal, State, local and special district criteria have been met and that the project is acceptable to the elected officials of the pertinent local jurisdiction as being in the public interest with respect to environmental and economic impacts;

(6) the date on which construction or alteration is expected to commence;

(7) a copy of the paving, grading and drainage plans,

(8) the name and address of the proposed operational entity, and;

(9) such other information as is reasonably necessary for the staff to determine that the surface water management system meets the conditions of this chapter including any information required in rule 40E-4.101.

Specific Authority 373.044, 373.113 F.S.
Law Implemented 373.103(1), 373.416, 373.419 F.S.
History—New 9-3-81, Amended 12-1-82.
Formerly 16K-4.021(1)(c), 16K-4.022(1)(d)

40E-40.141 Request for Additional Information.

(1) If the information provided in the Notice of Intent required by rule 40E-40.112 is not sufficient to determine whether the construction, alteration, operation or maintenance of the surface water management system qualifies for a general permit under rule 40E-40.302, or meets the conditions in rule 40E-40.381, the District may request the permittee to submit additional information, including any information required in rule 40E-4.101.

(2) If additional information is required it shall be requested within 30 days of receipt of the Notice of Intent.

Specific Authority 373.044, 373.113 F.S.
Law Implemented 120.60(2), 373.416, 373.419 F.S.
History—New 9-3-81.

40E-40.302 Conditions for Issuance of Authorization.

In order to qualify for a general permit under this chapter, the permittee must give reasonable assurances that the surface water management system meets all conditions of subsection (1) and all thresholds and conditions of at least one other subsection.

(1) General Conditions.

(a) The surface water management system design plans must be signed and sealed by a Florida registered Professional Engineer, if required by chapter 471, Florida Statutes.

(b) The surface water management system must meet the criteria specified in rule 40E-4.301 and applicable local requirements.

(c) The project must not be located in natural water bodies, viable wetlands habitat surface waters of the state or a Florida Outstanding Water as listed in rule 17-3.041.

(d) The project must not be located in an area governed by chapter 40E-41.

(e) The permittee must have obtained a right of way occupancy permit from the District if the project proposes to connect with, place structures in or across or otherwise make use of works of the District.

(2) Thresholds and Additional Conditions Within Dade County.

(a) The project must have less than 40 acres total land area with positive stormwater outfall or less than 320 acres total land area and less than 160 acres of impervious area with no positive stormwater outfall.

(b) The project and surface water management system must have been approved by the Dade County Department of Environmental Resources Management or its successor agency subsequent to October 2, 1977.

(3) Thresholds and Additional Conditions Within Palm Beach County.

(a) The project must have less than 40 acres total land area.

(b) The project and surface water management system must have been approved by Palm Beach County subsequent to October 2, 1977.

(4) Thresholds and Additional Conditions Within Collier County.

(a) The project must have less than 40 acres total land area.

(b) The project and surface water management system must have been approved by Collier County subsequent to September 17, 1980.

(5) Thresholds and Additional Conditions Within the Remainder of the District.

(a) The project must have less than 40 acres total land area.

(b) The project and surface water management system must have been approved by the appropriate unit of local government subsequent to the effective date of this rule.

(6) Additional Conditions for Surface Water Management Systems Associated with Public Highway Projects.

(a) The public highway project must be located within a right of way dedicated to the public for highway purposes.

(b) The public highway project must not:

1. Drain lands outside the jurisdiction of the constructing or funding public body;

2. Lower or have the potential for lowering the dry season groundwater table outside the project's design drainage area; and

3. Interfere with natural drainage patterns or flows.

(7) Additional Conditions for Phase Construction under Conceptual Approvals.

1. The project phase must comply with the requirements of the conceptual approval.

2. The project phase must meet the conditions of subsection (1) and any other of subsections (2) through (6).

3. The Conceptual Approval must have been issued subsequent to December 1, 1982.

Specific Authority 373.044, 373.113 F.S.

Law Implemented 373.416, 373.419 F.S.

History--New 9-3-81, Amended 12-1-82.

Formerly 16K-4.021(1)(a),(2), 16K-4.022(1)(a),(b)

40E-40.321 Duration of Permit.

Unless revoked or otherwise modified, the duration of a general permit authorized in rule 40E-40.042 is:

(1) 3 years, for a construction permit unless the construction of the permitted project discharge structure or equivalent has been completed. If the permitted discharge structure or equivalent has been completed, then the construction permit is valid for the duration of the project construction.

(2) perpetual, for an operation permit issued under chapter 373, Florida Statutes.

Specific Authority 373.044, 373.113 F.S.

Law Implemented 373.416, 373.419(2) F.S.

History—New 9-3-81, Amended 12-1-82.

40E-40.331 Modification of Permits.

A request for modification of a general surface water management permit, shall be made in accordance with this rule, unless otherwise revoked, suspended or expired. Requests to modify construction or operation permits shall be made:

- (1) in accordance with rules 40E-40.042, 40.112, and 40.302; or
- (2) by letter providing the requested modification does not exceed the conditions of subsection 40E-4.331(2)(b).

Specific Authority 373.044, 373.113, F.S.
Law Implemented 373.413, 373.416(1), F.S.
History—New 12-1-82.

40E-40.341 Revocation of Permits.

Violations of this chapter may result in the revocation or suspension of the authorization in whole or part in accordance with the provisions of section 373.429, and chapter 120, Florida Statutes, and rules 40E-1.609, and 40E-4.341.
Specific Authority 373.044, 373.113 F.S.
Law Implemented 120.60(6), 373.429 F.S.
History—New 9-3-81, Amended 12-1-82.
Formerly 16K-4.021(1)(e), 16K-4.022(1)(f) F.S.

40E-40.351 Transfer of Permits.

Transfer of permits shall be made in accordance with rule 40E-4.351.
Specific Authority 373.044, 373.113 F.S.
Law Implemented 373.413, 373.416(2), F.S.
History—New 12-1-82.

40E-40.381 Limiting Conditions.

The general permits authorized in this chapter shall be subject to the following limiting conditions:

- (1) The limiting conditions of rule 40E-4.381 shall apply.
- (2) The general permit shall be subject to other reasonable conditions as are necessary to assure that the permitted works will not be inconsistent with the overall objectives of the District and will not be harmful to the water resources of the District.

Specific Authority 373.044, 373.113 F.S.
Law Implemented 373.117, 373.416, 373.419, F.S.
History—New 9-3-81.
Formerly 16K-4.021(1)(b), 16K-4.022(1)(c).

**RULES
OF THE
SOUTH FLORIDA WATER MANAGEMENT DISTRICT
CHAPTER 40E-41
SURFACE WATER MANAGEMENT BASIN CRITERIA**

40E-41.011 Policy and Purpose
 40E-41.023 Western Canal 9 Basin Boundary
 40E-41.033 Implementation
 40E-41.043 Application of Part
 40E-41.053 Exemptions
 40E-41.063 Conditions for Issuance of Permits in the Western Canal 9 Basin

40E-41.011 Policy and Purpose.

The rules in this part establish additional surface water management criteria for the Western Canal 9 Basin which insure that development within the basin incorporates the appropriate water quantity and water quality control measures necessary to protect the integrity of the public investments in the basin and which minimizes adverse impacts to the water resources of the District. Criteria delineated in this chapter are in addition to criteria specified in chapter 40E-4. The criteria, exemptions and additional requirements specified in this part are not intended to supercede or rescind the terms and conditions of any valid surface water management permit issued by the District prior to the effective date of this part. Chapter 40E-40 shall not be effective within the Western Canal 9 Basin.

Specific Authority 373.044, 373.113 F.S.
 Law Implemented 373.413, 373.416 F.S.
 History--New, 9-3-81.
 Formerly 16K-34.01

40E-41.023 Western Canal 9 Basin Boundary.

The Western Canal 9 Basin is generally depicted in Figure 41-1, and specifically shall include the area within the following boundaries: In Dade and Broward Counties, Florida, as follows:

BEGINNING at the Southeast corner of Section 12, Township 52 South, Range 40

East; Thence, bear Westerly along the Section Lines to the intersection thereof with State Road No. 25; Thence, Northwesterly and Northerly along State Road No. 25 to the intersection thereof with State Road No. 820; Thence, Easterly along State Road No. 820 to the intersection thereof with the East line of Section 14, Township 51 South, Range 40 East; Thence, Southerly along the Section Lines to the Northwest corner of Section 1, Township 52 South, Range 40 East; Thence, Easterly along the Section Line to the Northeast corner of said Section 1; Thence, Southerly along the Section Lines to the Southeast corner of said Section 12 to the POINT OF BEGINNING.

Specific Authority 373.044, 373.113 F.S.
 Law Implemented 373.413, 373.416 F.S.
 History--New, 9-3-81.
 Formerly 16K-34.02

40E-41.033 Implementation.

The effective date this part is October 2, 1977.

Specific Authority 373.044, 373.113 F.S.
 Law Implemented 373.413, 373.416 F.S.
 History--New, 9-3-81.
 Formerly 16K-34.03

40E-41.043 Application of Part.

All projects located within the Western Canal 9 Basin requiring permits pursuant to rule 40E-4.041 shall be constructed, altered, operated maintained and abandoned in accordance with the criteria specified in rules 40E-4.301 and 40E-41.063 unless specifically exempted in rules 40E-4.051 or 40E-41.053. The most restrictive criteria will be applicable unless the applicant can demonstrate to the District's satisfaction through accepted methodology that the purpose and

intent of this part will be fulfilled using alternate criteria.
Specific Authority 373.044, 373.113 F.S.
Law Implemented 373.413, 373.416, 373.426 F.S.
History--New, 9-3-81.
Formerly 16K-34.04

40E-41.063 Exemptions.

Projects which have received final approval of construction plans, or equivalent approval, from local government prior to the effective date of this part are hereby exempt from the fill encroachment criteria specified in subsection 40E-41.063(4). All other criteria specified in rules 40E-4.301 and 40E-41.063 must be strictly met.

Specific Authority 373.044, 373.113 F.S.
Law Implemented 373.413, 373.416 F.S.
History--New, 9-3-81.
Formerly 16K-34.05

40E-41.063 Conditions for Issuance of Permits in the Western Canal 9 Basin.

(1) For design purposes the 100-year, 25-year and 10-year flood frequency elevations are established as 7.3 feet, 6.8 feet and 6.5 feet mean sea level, respectively.

(2) For systems designed to be pumped from fully diked areas, discharge shall be limited to three-fourths of an inch per twenty-four hours, or the criteria in rule 40E-4.301 whichever is more restrictive. In addition, no pumping shall be permitted when Canal 9 stages at pump tailwater exceed the 25-year peak elevation of 6.8 feet mean sea level.

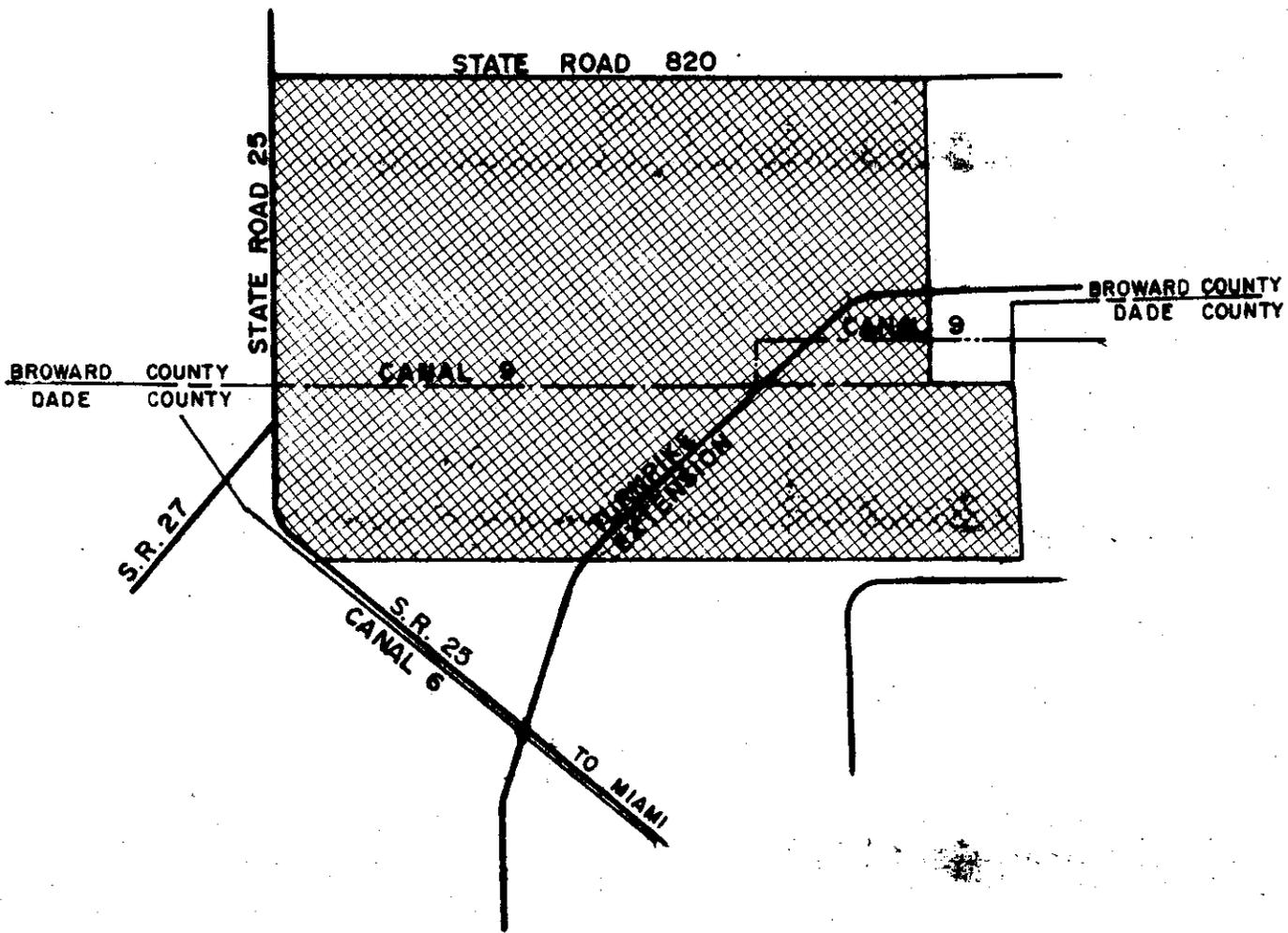
(3) All direct connections to Canal 9 shall be designed to prevent lowering of the groundwater table below elevation 2.5 feet mean sea level. All indirect connections to Canal 9 shall be designed to prevent lowering of the groundwater table by installing the discharge facilities at a discharge elevation no lower than six inches below average existing ground elevation for the project. Nothing in this subsection shall be construed to preclude the construction and operation of discharge facilities designed to temporarily lower the groundwater table below these elevations immediately prior to the arrival of a major storm event.

(4) Fill encroachment criteria

(a) The volume encroached by development between average existing ground surface and elevation 7.0 feet mean sea level shall not exceed 2.0 feet times the total area of the property.

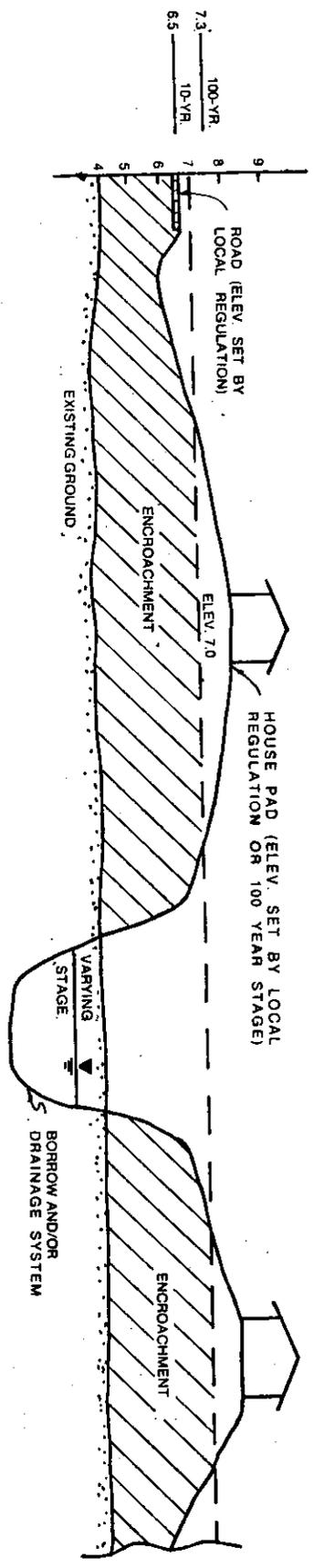
(b) For diked areas with on-site retention of runoff, the area diked shall not exceed the encroachment volume specified in paragraph (a) divided by the difference between average existing ground elevation within the dike and elevation 5.75 feet mean sea level. This will require all such projects on land of average elevation less than 3.75 feet mean sea level to preserve some area outside of the dikes with no fill. The preserved area shall be located so as to preserve natural basin flow patterns for lands outside the dikes.

(c) Typical development schemes using these criteria are depicted in Figure 41-2.
Specific Authority 373.044, 373.113 F.S.
Law Implemented 373.413, 373.416 F.S.
History--New, 9-3-81.
Formerly 16K-34.06

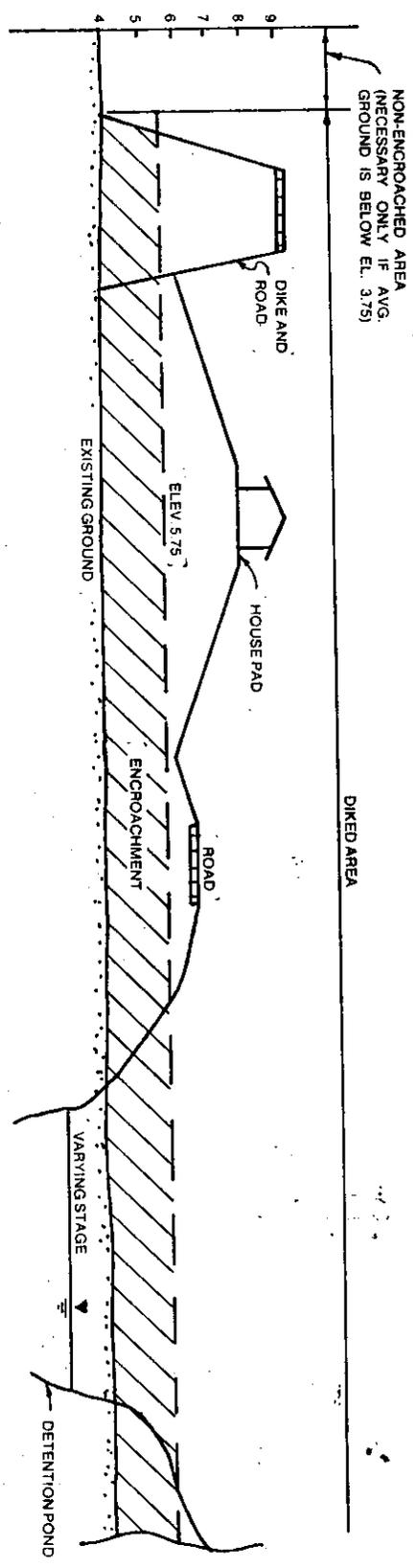


WESTERN CANAL 9 BASIN BOUNDARY

Figure (41- 1)



GRAVITY DRAINAGE SYSTEM



PUMPED RETENTION SYSTEM

Figure 41-2 TYPICAL DEVELOPMENT SCHEMES

PART B

BASIS OF REVIEW FOR SURFACE WATER MANAGEMENT
PERMIT APPLICATIONS WITHIN THE SOUTH FLORIDA WATER
MANAGEMENT DISTRICT

**BASIS OF REVIEW FOR
SURFACE WATER MANAGEMENT PERMIT APPLICATIONS
WITHIN THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT**

Effective December 1982

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1.0 INTRODUCTION

- 1.1 Objectives - Under Part IV of Chapter 373, Florida Statutes, and Rules Chapter 40E-4, and 40E-40, Florida Administrative Code, the District is responsible for the permitting of construction and operation of surface water management systems within its jurisdictional boundaries. In addition the District has been delegated storm water quality responsibility by the Florida Department of Environmental Regulation under Chapter 17-25 Florida Administrative Code. The objective of this document is to identify the procedures and information used by the District staff in permit application review, when either no more restrictive local criteria or conflicting information is available. The objective of the review is to insure that the permit will authorize activities or situations which are not harmful to the water resources of the District or inconsistent with the public interest.
- 1.2 Application Review Process - The District has established two types of construction or operation permits: individual (40E-4) and general (40E-40). A schematic diagram of the review process for individual permit applications is presented in Appendix 5 and for general permit notices in Appendix 6. Although the processes differ administratively, District Staff review submitted information in the same manner and using the same basic technical procedures. The primary differences apparent to a Permittee are the absence of a public notice and possible public participation process resulting therefrom and the authorization to commence construction upon completion of staff review rather than upon Board action. The general permit process was established to create a quicker review process for some projects, (generally less than 40 acres or public highways), not to allow lower standards to be met. Potential permittees of either permit type should refer to District rules (40E) or consult with District Staff when in doubt as to the specific process applicable. A reasonable assumption is that unusual projects will normally require individual permits.
- 1.2.1 Application Form - All applicants for individual permits should fill out the Application (Form RC-1). The application form has been prepared for only the most simple situations (existing agricultural operation permit applications for example) and supplementary information is usually necessary. Engineered systems are required to have plans and calculations signed and sealed by a Florida Professional Engineer in accordance with State law. Since review time is dependent on information sufficiency, it is to the Applicant's benefit to submit information to allow review to proceed without delays. Use of the checklist (Appendix 1) will be helpful to applicants in this regard.
- 1.2.2 General Permit Notice - Applicants for general permit authorization should fill out the notice form (Form RP-63) and provide the supplemental information described therein. Comments above concerning information sufficiency and use of the checklist are also applicable to general permits.
- 1.3 Criteria Flexibility - The criteria contained herein are flexible with the primary goal being to meet District water resource objectives. Performance criteria are used where possible. Other methods of meeting overall objectives will be considered and, depending on the magnitude of impacts, will be addressed by the Staff or presented to the District Board for consideration.

1.4 Simultaneous Reviews - Aside from purely technical aspects, legal and institutional factors must be considered. Because of legal time constraints for processing permits, it is advisable for the Applicant to contact other interested agencies, organizations, and affected citizens prior to submitting a formal application to the District. Summaries of meetings and copies of responses from appropriate parties should be included in the Application.

It may be in the Applicant's best interest to seek simultaneous reviews from all agencies with jurisdiction. Thus, this provision is not intended to preclude the submission of an application to this District prior to receiving other necessary approvals, but, the Application should contain at least a status report on other approvals being sought, with an indication that the surface water management portion of the project will be approved by other pertinent jurisdictions (See also Section 3.1.2)

Issuance of a Surface Water Management Permit by the District does not relieve the applicant of the responsibility of obtaining all necessary federal, state, local or special district permits or authorizations.

1.5 Compliance with Laws - Activities discussed herein must be conducted in accordance with all other applicable laws. Of specific note are those activities covered by laws as follows (including but not limited to):

- a. Chapters 403 and 253, F.S., Florida Department of Environmental Regulation - dredge and fill
- b. Section 404, FWPCA, Chapter 471 F.S.-U.S. Army Corps of Engineers - fill
- c. Florida - professional engineer seal and signature on all engineering plans and documents (subject to the exemptions of Chapter 471, Florida Statutes).

1.6 Construction/Operation Criteria Applicability - The District issues construction and operation permits for proposed surface water management activities and operation permits for existing systems. The criteria herein is specifically intended to apply to proposed activities (construction and operation permits). Some of the criteria may be applicable to the permitting of the operation of existing systems, but additional factors may require consideration. Such other factors would include the legal ability or necessity for the system to meet the criteria.

2.0 EXPLANATION OF TERMS

- 2.1 "Conceptual Approval" - letter of approval of a surface water management system in concept, authorized for issuance by the District Board. No construction is authorized thereby, unless otherwise specifically permitted, and the approval becomes void after two years from date of authorization if no applications for permit are made for any portions of the project area.
- 2.2 "Construction Permit" - surface water management permit issued by the District to an applicant, who has the legal ability to perform, for construction of surface water management facilities in accordance with the Application, Staff Report, Permit Conditions, and additional Board requirements.
- 2.3 "Control device" - element of a discharge structure which allows the gradual release of water under controlled conditions. This is sometimes referred to as the bleed-down mechanism, or "bleeder".
- 2.4 "Control elevation" - The lowest elevation at which water can be released through the control device.
- 2.5 "Detention" - The delay of storm runoff prior to discharge into receiving waters.
- 2.6 "Detention volume" - The volume of open surface storage behind the discharge structure between the overflow elevation and control elevation.
- 2.7 "Discharge structure" - structural device, usually of concrete, metal, timber, etc., through which water is discharged from a project to the receiving water.
- 2.8 "Elevation" - height in feet above mean sea level according to National Geodetic Vertical Datum (NGVD).
- 2.9 "Historic discharge" - The peak rate at which runoff leaves a parcel of land by gravity in an undisturbed/natural site condition or the legally allowable discharge at the time of permit application.
- 2.10 "Impervious" - land surfaces which do not allow, or minimally allow, the penetration of water; included as examples are building roofs, normal concrete and asphalt pavements, and some fine grained soils such as clays.
- 2.11 "Operation Permit" - surface water management permit issued by the District to an entity, which has the legal ability to perform, for operation and maintenance of surface water management facilities in accordance with the Application, Staff Report, Permit Conditions, and additional Board requirements.

- 2.12 "Overflow elevation" - design elevation of a discharge structure at which, or below which, water is contained behind the structure, except for that which leaks out, or bleeds out, through a control device down to the control elevation.
- 2.13 "Retention" - the prevention of storm runoff from direct discharge into receiving waters; included as examples are systems which discharge through percolation, exfiltration, and evaporation processes.
- 2.14 "Retention/detention area (dry)" - water storage area with bottom elevation at least one foot above the control elevation of the area.
- 2.15 "Retention/detention area (wet)" - water storage area with bottom elevation lower than one foot above the control elevation of the area.
- 2.16 "Staff Report" - written report prepared by the District Staff advising the Board of its conclusions and recommendations based on review of the Application. The description of the project in the Staff Report shall take precedence over application data in the District files, since numerous project changes are often made by applicants during application processing, the results of which may show up only in the staff report.
- 2.17 "Water management areas" - Areas to be utilized for the conveyance or storage of stormwater or environmental preservation.
- 2.18 "Wetlands" - areas that are inundated by surface or ground water with a frequency sufficient to support, and under normal circumstances do or would support, a prevalence of vegetative or aquatic life that requires saturated or seasonally saturated soil conditions for growth and reproduction. Wetlands generally include swamps, marshes, bogs, and similar areas such as sloughs, potholes, wet meadows, river overflows, mud flats, and natural ponds [Ref: Executive Order 11990, 42 Fed. Reg. 26961 (1977)].

3.0 CRITERIA

3.1 Administrative

- 3.1.1 **Phased Projects** - projects that are to be developed in phases will normally require the submission of a master plan of the Applicant's contiguous land holdings. The primary interest of the District is to insure continuity between phases, satisfactory completeness of individual phases should the project be incomplete as planned, and preservation of adjacent property owners' rights. This includes adjacent property owners created by the sale of incomplete phases.

An Application for Conceptual Approval of the total master plan must be submitted first. An Application for construction approval of the first phase may also be included as a part of the initial Application provided that the portion for which construction approval is desired has its necessary zoning. As the Permittee desires to construct additional phases, these approvals would be included as modifications to the original Permit.

Applications for individual project phases, where no Conceptual Approval has been obtained, may be considered only when the phases are totally independent of, or make sufficient provisions for, adjacent lands.

- 3.1.2 **Land Use Considerations** - Before an Application will be considered for the issuance of a letter of Conceptual Approval, the proposed land use must be compatible with the existing zoning or local government Comprehensive Plan. If the proposed project is a Development of Regional Impact (DRI) then a copy of the final approved (i.e., all appeals resolved) Development Order must be provided with the request for Conceptual Approval. Before an Application will be considered for the issuance of a Construction or Operation Permit, the proposed land use must be compatible with the existing zoning. (Merely making application to local government for rezoning of the land will not suffice; any necessary rezoning must be officially obtained prior to the issuance of this District's permit for construction or operation).

- 3.1.3 **Water and Wastewater Service** - Potable water and wastewater facilities must be identified. The Applicant for a Surface Water Management Permit must provide information on how these services are to be provided. If wastewater disposal is accomplished on-site, additional information will normally be requested regarding separation of waste and storm systems.

- 3.1.4 **Water Management Areas** - Such areas shall be legally reserved for that purpose by dedication on the plat, deed restrictions, easements, etc., so that subsequent owners or others may not remove such areas from their intended use. Management areas including 20 foot, minimum wide maintenance easements, shall be connected to a public road or other location from which operation and maintenance access is legally and physically available.

- 3.1.5 **Process for determining environmental impacts** - All Surface Water Management Applications will be reviewed by the Staff for purposes of advising the District Governing Board as to anticipated impacts of the proposed work on (a) the water resources of the District and (b) natural upland systems.

The Staff will identify the significant environmental features of the project which are directly related to the water resources of the District, evaluate the impact of the project on these water resource related environmental features and make specific recommendations as to the issuance or denial of the permit based upon the evaluation.

The Staff will separately identify the environmental features of the project which are indirectly or not related to the water resources of the District and evaluate the impacts of the project on the non-water resource related environmental features. No recommendations as to the issuance or denial of the permit will be given based upon non-water resource related environmental impacts.

The following paragraphs give general information concerning the evaluation of environmental impacts.

- 3.1.5.1 Information utilized in the review will include Application information such as aerial photographs, topographic maps and development plans, as well as relevant information from such other sources as site inspections, studies, meetings with the Applicant, etc.
- 3.1.5.2 At the request of an Applicant or potential Applicant, the Staff will conduct a site inspection, at a mutually convenient time.
- 3.1.5.3 If necessary, Staff will independently inspect the site to determine environmental features. Adverse impacts will not be reported without a site inspection.
- 3.1.5.4 Pre-application meetings are encouraged, as are submissions of optional explanatory information, which may be useful to the Staff in its review.
- 3.1.5.5 The following categorization of environmental features will be used by the Staff in evaluating impacts:
 - a. Environmental features directly related to the water resources of the District, such as:
 - (i) Wetlands habitat except those previously impacted by drainage, land clearing, earthwork, or those which have been invaded by exotic species and are in a state of environmental decay.
 - (ii) Natural waterbodies.
 - b. Environmental features which may be indirectly related to the water resources of the District, such as:
 - (i) Intermittent ponds.
 - (ii) Significant habitat diversity support systems, usually consisting of highly productive mixed upland and wetland systems with appropriate buffer areas.
 - c. Environmental features which are not related to the water resources of the District, such as:
 - (i) Unique upland habitats, usually consisting of tropical hardwood tree hammocks and beach dunes.
 - d. Preferred habitat for rare or endangered species of plants or animals will be identified.

3.1.5.6 The actual impact resulting from changes to the natural site will be predicted by considering the existing natural system as altered by the proposed project. It is recognized that the variety of actions associated with a project may result in both positive and negative environmental impacts. The Staff therefore, will balance both the positive and negative impacts of the project to achieve a reasonable degree of protection for significant environmental features consonant with the overall protection of the water resources of the District.

3.1.6 Legal/Operation Entity Requirements

3.1.6.1 Acceptable Entities - The District considers the following entities acceptable to satisfy limiting condition 40E-4.381(2)(h).

- a. Local governmental units including counties or municipalities
- b. Active Chapter 298 Florida Statute water control districts or drainage districts or Chapter 190 Florida Statutes special assessment districts.
- c. Non-profit corporations including homeowners associations, property owners associations, condominium owners associations or master associations
- d. The property owner or developer as Permittee is normally not acceptable as a responsible entity especially when the property is to be sold to various third parties. However, the property owner or developer may be acceptable under one of the following circumstances.
 - (i) The property is wholly owned by said Permittee and is intended to be so retained. This would apply to a farm, corporate office or single industrial facility for example.
 - (ii) The ownership of the property is retained by the Permittee and is either leased to third parties such as in some shopping centers or rented to third parties such as in some mobile home parks for example.

To satisfy the requirement, the Permittee must provide written documentation. If the entity is a governmental unit, the Permittee must supply written proof in the appropriate form by either letter or resolution, that the governmental entity will accept the operation and maintenance of all of the surface water management system including lakes, easements, etc. prior to staff report approval.

3.1.6.2 Association Requirements

3.1.6.2.1 If a Homeowner or Property Owners Association or Master Association is proposed, the Permittee must submit the Articles of Incorporation for the Association, and Declaration of Protective Covenants or Deed Restrictions, as well as a reference map if referred to in documents. After these are approved, the Permittee must furnish the Certificate of Incorporation and the recording information (Official Book and page number) for the Declaration.

3.1.6.2.2 If a condominium association is proposed, the Permittee must supply the Articles of Incorporation for the Condominium Association, and Declaration of Condominium. After the documents are approved, it will be necessary for the Permittee to forward a copy of the letter from the Department of Business Regulation, Bureau of Condominiums stating that the documents are proper for filing.

The Association, be it either a non-profit association or a condominium association, must comply with the applicable provisions of Florida laws, specifically Chapters 617 or 718, Florida Statutes.

3.1.6.2.3 The Association must have the following general powers which are reflected in the Articles of Incorporation:

- a. Own and convey property
- b. Operate and maintain common property specifically the surface water management system as permitted by the South Florida Water Management District including all lakes, retention areas, culverts and related appurtenances.
- c. Establish rules and regulations
- d. Assess members and enforce said assessments
- e. Sue and be sued
- f. Contract for services (if the Association contemplates employing a maintenance company) to provide the services for operation and maintenance.
- g. The Association must have as members all the homeowners, lot owners, property owners or unit owners.
- h. The Association shall exist in perpetuity; however, if the Association is dissolved, the Articles of Incorporation must provide that the property consisting of the surface water management system shall be conveyed to an appropriate agency of local government. If it is not accepted, then the surface water management system must be dedicated to a similar non-profit corporation.
- i. All other powers necessary for the purposes for which the Association is organized.

3.1.6.2.4 The Declaration of Protective Covenants, Deed Restrictions or Declaration of Condominium must set forth the following:

- a. That it is the responsibility of the Association to operate and maintain the surface water management system.
- b. The surface water management system is owned by the Association or described therein as common property.

- c. That there be a method of assessing and collecting the assessment for operation and maintenance of the surface water management system.
- d. That any amendment which would affect the surface water management system, including the water management portions of the common areas, must have the prior approval of the South Florida Water Management District.
- e. That the Declaration of Covenants be in effect for at least 25 years with automatic renewal periods thereafter.

3.1.6.2.5 If the documents are not submitted with the original application, they must be submitted and approved prior to construction. It is advised that the documents be submitted prior to recording to allow comment by the District's Office of Counsel. Modification of these requirements can only be based upon

- a. Intervening local government requirements of a more stringent nature such as the requirement of a maintenance agreement and posting of bond by the developer.
- b. The uniqueness of the project requiring an alternative entity. Such alternative entity must be evaluated upon an individual basis with any and all necessary agreements or easements in effect before approval will be given.

3.1.7 Construction completion certification - Upon completion of the construction of a system permitted by the District, it is a requirement of the issuance of the operation permit, and hence transfer of operation and maintenance responsibility, that a Florida registered professional engineer certify that the system was indeed constructed as permitted. Suggested wording for this is as follows:

I HEREBY CERTIFY THAT ALL FACILITIES FOR THE ABOVE REFERENCED PROJECT HAVE BEEN CONSTRUCTED IN ACCORDANCE WITH THE DESIGN APPROVED BY THE DISTRICT, AND HEREBY AFFIX MY SEAL THIS _____ DAY OF _____, 19_____.

_____(SEAL)

3.1.8 Water quality monitoring - All new drainage projects will be evaluated based on the ability of the system to prevent degradation of receiving waters and the ability to conform to State water quality standards (see Chapter 17-3, Florida Administrative Code).

3.1.8.1 There are areas within the District where water quality considerations are extremely important, because of the sensitivity of the area. These areas include:

- a. Lake Okeechobee and the Lower Kissimmee River.
- b. Canals or streams designated as Class I or Class II waters by the Florida Department of Environmental Regulation.
- c. Canals back-pumped to Lake Okeechobee or to the Conservation areas, or proposed for back-pumping.
- d. Sensitive areas, including but not limited to the Savannahs in St. Lucie and Martin Counties, the Six Mile Cypress strand and Estero Bay Aquatic Preserve in Lee County and the Big Cypress area of Collier County.

New developments which plan to utilize sensitive areas for disposal of storm-water will be given more detailed evaluation by the District Staff. In addition, new projects entailing a more intensified land use and planning to discharge to a sensitive receiving water, directly or indirectly, may be required to institute a water quality monitoring program. The following listing of land use intensity is in ascending order.

1. Wetlands (including transition zones adjacent thereto)
2. Forested lands
3. Rangeland
4. Agricultural
5. Urban and built-up land

3.1.8.2 In general, there are two reasons for requiring water quality monitoring by permittees, as follows:

- a. Such data can be used to determine if the pollution abatement practices incorporated into the design of the drainage system are functioning properly.
- b. In some cases there may be a real and immediate concern regarding degradation of quality in the receiving waters, regardless of the pollutant removal efficiency of the drainage system.

3.1.8.3 The reason for the monitoring requirement will normally be stated in the Staff Report for each Permit, as will be the monitoring schedule and the parameters of interest. Although specifics may vary from project to project, samples will normally be collected at discharge locations. A typical sampling schedule will consist of samples collected once per month during the wet season, however this may also vary among projects. Some permittees may be required to collect samples during storm events in addition to monthly sampling. Rate of discharge at the time of sample collection and total monthly discharge each month for the duration of the permit will also be required. Parameters of interest will normally include those listed in Chapter 17-3, Florida Administrative code, plus the nutrients nitrogen and phosphorus.

3.1.8.4 As a general rule, monitoring required of permittees will be confined to points within their boundaries. If additional sampling is needed in order to assess off-site impacts of the projects, such sampling will normally be conducted by the District.

3.1.8.5 Staff Reports written and Permits issued for projects not requiring monitoring at this time will normally include a statement to the effect that water quality monitoring may be required in the future. This should not be construed as an indication that the District is contemplating the implementation of a program of intensive water quality monitoring by all permittees. If water quality problems develop in specific areas, however, permittees are in this manner put on notice that they may have to determine the quality of the water which they are discharging.

3.2 Technical

3.2.1 Water quantity

3.2.1.1 General - This document refers, in the usual engineering fashion, to flood and drought frequency impacts interchangeably with rainfall frequency. The Applicant is cautioned however that water resource impacts are of interest in the permit process, and that additional calculations may be necessary to identify other combinations of site conditions and rainfall frequencies which might result in impacts of the specified frequency. Examples include designs affected by spring tides, fluctuating tides and fluctuating receiving water stages.

3.2.1.2 Discharge - Off-site discharge is limited to amounts which will not cause additional adverse off-site impacts. These amounts are:

- a. historic discharges, or
- b. amounts determined in previous District permit actions, or
- c. amounts specified in District criteria (see Appendices 2 and 3).

Unless otherwise specified by previous District permits, District criteria or local government, a storm event of 3 day duration and 25 year return frequency shall be used in computing off-site discharge.

3.2.1.3 Local government criteria - Designs shall provide drainage and flood protection in accordance with published local government criteria, but if unspecified the criteria are:

- frequency - 5 years
- duration - 1 day (road centerlines)
1 hour (parking lots served by exfiltration systems)

3.2.1.4 Flood protection - Building floors shall be above the 100 year flood elevations, as determined from the most appropriate information, including Federal Flood Insurance Rate Maps. Both tidal flooding and the 100 year, 3 day storm event shall be considered in determining elevations.

3.2.1.5 Flood plain encroachment - No net encroachment into the floodplain, up to that encompassed by the 100 year event, which will adversely affect the existing rights of others, will be allowed.

3.2.1.6 Minimum drainage

- a. Residential projects shall have systems with the calculated ability to discharge by surface flow or subsurface percolation at least 3/8 inch per day during or subsequent to the storm of the allowable discharge frequency and duration, so that lowering of the groundwater table to a depth of 2.5 feet below the ground surface will occur in 12 days or less.
- b. Commercial and industrial projects to be subdivided for sale are required to have installed by the permittee, as a minimum,
 1. the required water quality system for one inch of runoff detention or one half inch of runoff retention from the total developed site.
 2. a stormwater collection and conveyance system to interconnect the retention/detention system with the outfall, with access points to the system available to each individual lot or tract. The system shall be sized to limit discharge under design conditions to the allowable discharge.

Projects permitted in such manner may require deed restriction which identify to lot or tract purchasers the amount of additional on-site storm water management system necessary to provide flood protection for specific design events and any additional retention/detention required for water quality purposes.

- c. Commercial projects to remain as single owner projects may be permitted, with the approval of local government, to lesser degrees of stormwater protection than required by District standards. In no case however will the lesser standards be applicable to water quality, off-site discharge or building floor protection. Projects permitted in such manner will be special conditioned, as notice to the Permittee and local government, that a substandard design has been permitted.

3.2.1.7 Overdrainage and water conservation - Systems shall be designed to attempt to:

- a. Maintain water tables in existing wellfield cones of depression, and
- b. Preserve site environmental values (see Sections 3.1.5 and 3.2.3 herein), and
- c. Maintain water tables no more than six feet below natural ground, and
- d. Not waste freshwater, and
- e. Not lower water tables which would adversely affect the existing rights of others, and
- f. Preserve site groundwater recharge characteristics.

3.2.1.8 Provision must be made to replace or otherwise mitigate the loss of historic basin storage provided by the project site.

3.2.1.9 Offsite lands - Onsite diversion swales, dikes, etc. may be necessary to allow the passage of drainage from offsite upland areas to downstream areas. Diking of project development areas may be necessary to contain water at or above stages identified in the project discharge computations.

3.2.2 Water quality

3.2.2.1 State standards - Projects shall be designed so that discharges will meet State water quality standards, as set forth in Chapter 17-3.

3.2.2.2 Retention/detention criteria - Retention and/or detention in the overall system, including swales, lakes, canals, greenways, etc., shall be provided for one of the three following criteria or equivalent combinations thereof (Note: Appendix 4 may be utilized where the conditions therein can be met):

- a. Wet detention volume shall be provided for the first inch of runoff from the developed project, or the total runoff from a 3-year, 1-hour rainfall event, whichever is greater.
- b. Dry detention volume shall be provided equal to 75 percent of the above amounts computed for wet detention.
- c. Retention volume shall be provided equal to 50 percent of the above amounts computed for wet detention.

3.2.2.3 High density projects - Projects which have more than 40 percent impervious area may be required to use retention rather than detention, depending on such variables as:

- a. sensitivity of receiving water
- b. soils
- c. arrangement of onsite facilities.

3.2.2.4 Use of natural areas and existing water bodies - Natural areas and existing water bodies may be used for retention/detention purposes on some occasions, when not in conflict with environmental (see Sections 3.1.5 and 3.2.3 herein) or public use considerations.

Candidate areas for such purposes might include:

- a. Previously degraded areas,
- b. Man made areas (borrow pits, etc.),
- c. Extensive areas which have the ability to absorb impacts easily,
- d. Areas incorporated into a system with mitigation features.

3.2.2.5 Underground Exfiltration Systems

- a. Systems shall be designed for the retention volumes specified in Section 3.2.2.2 for retention systems, exfiltrated over one hour for retention purposes, prior to overflow, and based on test data for the site. (Note: such systems should not be proposed for projects to be operated by entities other than single owners or entities with full time maintenance staff.)
- b. A safety factor of two or more shall be applied to the design to allow for geological uncertainties.

3.2.3 Environmental

3.2.3.1 Viable wetlands - Viable wetlands and appropriate buffer areas shall be preserved. Man made wetlands may be created to replace natural wetlands.

3.2.3.2 Habitat diversity systems - Natural systems composed of distinct upland/wetland systems shall be preserved where it is evident that the two are interdependent.

3.2.3.3 Centralized preservation areas - Smaller isolated wetlands may be disturbed and "traded off" in certain instances for larger combination upland/wetland systems.

3.2.4 Construction

3.2.4.1 Discharge structures

- a. All design discharges shall be made through structural discharge facilities. Earthberms shall be used only to disperse or collect sheet flows from or to ditches, swales, etc. served by discharge structures.

- b. Discharge structures shall be fixed so that discharge cannot be made below the control elevation, except that emergency devices may be installed with secure locking devices. Either the District or an acceptable governmental agency will keep the keys for any such devices.
- c. Non-operable discharge structures shall be constructed so that they are just that.
- d. Discharge structures should include gratings for safety and maintenance purposes. The use of trash collection screens is desirable.
- e. Discharge structures shall include a "baffle" system to encourage discharge from the center of the water column rather than the top or bottom.
- f. Direct discharges, such as through culverts, stormdrain, weir structures, etc., will normally be allowed to receiving waters which by virtue of their large capacity, configuration, etc. are easily able to absorb concentrated discharges. Such receiving waters might include existing storm sewer systems and man-made ditches, canals and lakes.
- g. Indirect discharges, such as overflow and spreader swales, are required where the receiving water or its adjacent supporting ecosystem might be degraded by a direct discharge. The discharge structure would therefore discharge into the overflow, spreader swale, etc. which in turn would release the water to the actual receiving water. Such receiving waters might include natural streams, lakes and marshes and land naturally receiving overland sheetflow.

3.2.4.2 Control devices/Bleed-down mechanisms for Detention Systems

- a. Gravity control devices shall normally be sized based on a design discharge of 50 percent of the detention volume in one day. The devices should incorporate dimensions no smaller than 6 square inches of cross sectional area nor one inch minimum dimension.
- b. Gravity control devices shall be of a "V" shaped configuration to increase detention time during minor events.
- c. Pumped control devices shall normally be sized based on a design discharge of 20 percent of the detention volume in one day.

3.2.4.3 Dry retention/detention areas (not applicable to natural wetland areas):

- a. Dry retention/detention areas shall have mechanisms for returning the groundwater level in the area to the control elevation.

- b. Mosquito control ditches or other appropriate features for such purpose, shall be incorporated into the design of dry retention/detention areas.
- c. The design of dry retention/detention areas shall incorporate considerations for regular maintenance and vegetation harvesting procedures.

3.2.4.4 Wet Retention/Detention Areas

3.2.4.4.1 Dimensional Criteria (as measured at or from the control elevation).

- a. Area - 0.5 acre minimum
- b. Width - 100 feet minimum for linear areas in excess of 200 feet length. Irregular shaped areas may have narrower reaches but should average at least 100 feet. (Note: Area and width requirements may be waived for projects to be operated by single owner entities or entities with full time maintenance staffs with an obvious interest in maintaining the areas, e.g. golf courses.)
- c. Depth - 25 to 50 percent of the area shallower than 6 feet (including side slopes), and 25 to 50 percent of the area deeper than 12 feet are desirable.
- d. Side slopes - for purposes of public safety, water quality enhancement and maintenance, all wet retention/detention areas should have side slopes no steeper than 4:1 (horizontal: vertical) out to a depth of two feet below the control elevation, or an equivalent substitute.

3.2.4.4.2 Support Facility Design Criteria:

- a. Perimeter maintenance and operation easements of 20 feet (minimum preferable) width at slopes no steeper than 4:1 (horizontal: vertical) should be provided beyond the control elevation water line.
- b. Control elevations should be no higher than 2 feet below the minimum road centerline elevation in the area served by the control device in order to protect the road subgrade.

3.2.4.5 Exfiltration systems

- a. Pipe diameter - 12" minimum
- b. Trench width - 3' minimum
- c. Rock in trench must be enclosed in filter material, at least on the top and sides
- e. Maintenance sumps in inlets.

3.2.4.6 Deep water bodies - water bodies shall meet both of the following criteria:

- a. Entrapped salt water, resulting from inland migration of salt water during hurricane tide conditions or penetration of the freshwater/salt water interface, will not adversely impact existing legal water users.
- b. The penetration of a water-bearing formation exhibiting poorer water quality, in terms of chloride concentrations, will not adversely impact existing legal water users.

3.2.4.7 Impervious areas - runoff shall be discharged from impervious surfaces through retention areas, detention devices, filtering and cleansing devices, and/or subjected to some type of Best Management Practice (BMP) prior to discharge from the project site. For projects which include substantial paved areas, such as shopping centers, large highway intersections with frequent stopped traffic, and high density developments, provisions shall be made for the removal of oil, grease and sediment from storm water discharges.

3.2.4.8 Stagnant water conditions - configurations which create stagnant water conditions such as hydraulically dead end canals are to be avoided, regardless of the type of development.

4.0 DESIGN INFORMATION

4.1 Antecedent conditions - average wet season

4.2 Rainfall - Reference sources include:

- a. SFWMD Technical Publication No. 81-3 and the following distribution table:

Time (hours)	Cumulative Percentage of Peak One Day Rainfall
0	0
24	14.6
48	35.9
58	57.2
59	62.8
59.5	67.8
59.75	82.8
60	101.5
60.5	108.8
61	112.6
62	117.7
72	135.9

} 100% One Day Rainfall

- b. Actual gage data analyzed by accepted statistical methods,
- c. U.S. Department of Agriculture, Soil Conservation Service, "Rainfall Frequency Atlas of Alabama, Florida, Georgia and South Carolina for Durations from 30 Minutes to 24 Hours and Return Periods from 1 to 100 years" (1973).
- d. Florida Department of Transportation "Drainage Manual" (Second Edition, revised 1978).

4.3 Evapotranspiration - amounts can be estimated as follows:

- a. Groundwater depth 0 to 1' - 0.3" ET/day
 b. Groundwater depth 1' to 2.5' - 0.2" ET/day
 c. Groundwater depth 2.5' to 4' - 0.1" ET/day
 d. Groundwater depth below 4' - 0" ET/day

4.4 Storage

- 4.4.1 Open surface - if open surface storage is to be considered in the review, the Applicant should submit stage-storage computations. If open surface storage plus discharge is to be considered, the stage discharge computations should also be submitted. Actual rather than allowable discharges shall be used in routing. Often for the more extreme events, such as 100 year frequency, discharge should be ignored because the high tail water stage in the receiving water effectively prevents any but a negligible discharge. In such cases a mass accounting of on-site water will suffice, if adjacent areas can safely be ignored.

- 4.4.2 Ground - the Soil Conservation Service has made the following estimate of soil storage capability for the normal sandy soils found within the District in their average natural state:

<u>Depth to Water Table</u>	<u>Cumulative Water Storage</u>
1'	0.6"
2'	2.5"
3'	6.6"
4'	10.9"

For the same sandy soils which have been compacted intentionally or incidental to earthwork operations, the cumulative storage should be reduced 25 percent.

Groundwater storage beneath impervious surfaces generally appears impractical to any great degree because of the trapped air which water cannot displace. It further appears impractical below four feet depths, except in high sandy coastal ridge areas, because of the relationship between infiltration rates and runoff rates in most parts of south Florida.

4.5 Infiltration and percolation

- 4.5.1 Ground surface - Ground surface infiltration will be reviewed on the basis of commonly accepted procedures such as those of Soil Conservation Service (see U.S. Department of Agriculture, Soil Conservation Service Technical Paper No. 149, "A Method for Estimating Volume and rate of Runoff in Small Watersheds" (1973), and U.S. Department of Agriculture, Soil Conservation Service Technical Release No. 55, "Urban Hydrology for Small Watersheds" (1975); or Rational Method (see Florida State Road Department, "Drainage Manual" (2nd Edition, rev. 1978)); or standard Civil Engineering textbooks), unless test data are submitted to justify other procedures.

- 4.5.2 Subsurface - subsurface exfiltration will be reviewed only on the basis of representative or actual test data submitted by the Applicant. Tests shall be consistent as to elevation, location, soils, etc. with the system design to which the test data will be applied. The Dade County Department of Environmental Resource Management and Florida Department of Transportation are suggested as reference sources to Applicants for test procedures and design and maintenance performance of subsurface exfiltration systems.

4.6 Runoff - the usual methods of computation are as follows:

- a. Rainfall minus losses and storage.
- b. Soil Conservation Service (see U.S. Department of Agriculture, Soil Conservation Service, "National Engineering Handbook, Section 4, Hydrology" - 1972), with extra attention to hydrologic accounting of water table conditions.

- c. Rational method, for systems serving projects of less than 10 acres total land area (see Florida State Department of Transportation, "Drainage Manual" (2d Edition, revised 1978); or standard Civil Engineering texts).

4.7 Receiving Water Stage

- 4.7.1 Regulated Systems - design and maintained stage elevations should be available either from the local jurisdiction or the District. Stages for frequencies other than the design will be estimated by the District upon request from the Applicant.
- 4.7.2 Non-regulated systems - the Applicant should compute receiving water stages for such systems from the best available data and submit the results to the District for review and concurrence before utilizing such results in further computations.
- 4.7.3 Any system - variable tailwater stages should be considered if they have a significant influence on the design.

4.8 Discharge

- 4.8.1 Allowable discharges - peak discharge, for purposes of meeting maximum allowable discharges, may normally be computed as the maximum average discharge over a time period equal to the time of concentration of the contributory area.
- 4.8.2 Non-urban gravity systems - rural gravity systems which are to be connected to District facilities are generally reviewed on the basis of the discharge culvert operating at a fixed head loss to meet the allowable discharge rate. This basis is justified by the estimate that the upstream headwater generated by rural runoff will be unable to collect at the upstream culvert end appreciably faster than the rate at which the receiving water rises. The fixed head loss amounts are 0.5' except in south Dade County (south of Canal C-2) where the value is 0.2'.

APPENDIX 1

CHECKLIST FOR SURFACE WATER MANAGEMENT PERMIT APPLICATIONS

- I. Site Information including:
 - A. Detailed location sketch.
 - B. Topographic map of the site and adjacent hydrologically related areas, which shall include location and description of bench marks (minimum of one per major water control structure).
 - C. Overall map of the area showing where runoff presently goes and size, location, topography, and land use of off-site areas which drain through, on to, and from the project.
 - D. Identification of seasonal water table elevations. If the project is in the known flood-way of a natural stream, it should be identified and approximate flooding depths determined. The 100 year flood plain elevations and limits should be identified if applicable.
 - E. Description of vegetative cover. Wetland areas should be identified.
 - F. A recent aerial photograph of the project area with project boundaries delineated.
 - G. Paving, grading and drainage plans, with special attention to perimeter site grading.
 - H. Percolation tests must be submitted if percolation or exfiltration systems are proposed. Percolation tests shall be representative of design conditions.
 - I. Complete description of measures to be implemented during the construction period to mitigate adverse quantity and quality impacts off-site.
- II. Master Drainage Plan showing:
 - A. Location of all water bodies with details of size, side slopes, elevations and depths.
 - B. Location and details of all major water control structures. Control elevations of the control structures must be included along with any seasonal water level regulation schedules.
 - C. Drainage basin boundaries showing direction of flow, taking into account off-site runoff being routed through or around the project.
 - D. Locations of roads and buildings along with their proposed elevations.

- E. Right-of-way and easement locations for the drainage system including all areas to be reserved for water management purposes.
- F. Location and size of internal minor water management facilities.
- G. Nearby existing offsite water management facilities such as wells, lakes, etc. which might be affected by the proposed construction or development. The names and addresses of the owners of such facilities should also be submitted.

III. Drainage Calculations including:

- A. Design storms used including depth, duration and distribution.
- B. Off-site inflows.
- C. Stage-storage computations for the project and stage-discharge computations for the outfall structure(s).
- D. Acreages and percentage of property proposed as:
 - 1. Impervious surfaces (excluding water bodies)
 - 2. Pervious surfaces (green areas)
 - 3. Lakes, canals, retention areas etc.
 - 4. Total acreage of project
- E. Runoff routing calculations showing discharges, elevations, and volumes retained and/or detained during applicable storm events. Included should be the necessary mathematical computations to demonstrate that the proposed development will not remove net storage from the basin for events up to the 100 year frequency.
- F. Calculations required for determination of minimum building floor and road elevations.

IV. Legal and Institutional Information including:

- A. Identify entity responsible for operation and maintenance of the surface water management system.
- B. If the operation and maintenance entity is to be a public body such as a city or drainage district, a letter of potential acceptance from the public body must be submitted prior to staff report approval. If the entity is a homeowners association, then documents verifying the existence of such an organization and its ability to accept operation and maintenance responsibility must be submitted prior to commencement of construction (assuming the permit is issued).
- C. Indicate how water and wastewater service will be supplied. Letters of commitment from off-site suppliers must be included.

- D. Identify agencies, organizations, etc. contacted. Include meeting summaries and/or responses. Give status of local approvals indicating if site plan and/or subdivision approval has been granted, final plats recorded and building or construction permits issued.
- E. Present and proposed zoning: Evidence of compatible density and classification under the Local Government Zoning or Comprehensive Plan must be submitted; include the status under the DRI process, if applicable. The number of proposed dwelling units and/or square feet of commercial area must be supplied. If the project is a DRI, then a copy of the final approved development order must be supplied.
- F. Submit a copy of a boundary survey and a copy of the recorded warranty deed, if the Applicant is a contractual buyer then a copy of the executed contract must be provided.
- G. Documentation of legal and physical availability of receiving water system to receive project discharge if such is not evident.

NOTES:

- 1. Include four copies of all information, and one completed copy of Application Form RC-1.
- 2. For a Conceptual Approval, Items I.G, I.I., II.E, and II.F will not be necessary.

APPENDIX 2

ALLOWABLE DISCHARGE FORMULAS FOR SOUTH FLORIDA WATER
MANAGEMENT DISTRICT CANALS

Q = allowable discharge in cfs (cubic feet per second)

A = drainage area in square miles

CSM = cfs per square mile

CFS = GPM ÷ 448.8

<u>CANAL</u>	<u>ALLOWABLE RUNOFF</u>	<u>DESIGN FREQUENCY</u>
C-1	$Q = \left(\frac{112}{\sqrt{A}} + 31 \right) A$	10 year
C-2	Essentially unlimited inflow by gravity connections southeast of Sunset Drive. 54 CSM northwest of Sunset Drive.	200 year +
C-4	Essentially unlimited inflow by gravity connections east of S.W. 87th Avenue. 54 CSM west of S.W. 87th Ave.	200 year +
C-6	Essentially unlimited inflow by gravity connections east of FEC Railroad. 54 CSM west of FEC Railroad.	200 year +
C-7	Essentially unlimited inflow by gravity connection.	100 year +
C-8	Essentially unlimited inflow by gravity connection.	200 year +
C-9	Essentially unlimited inflow by gravity connection east of Red Road. 20 CSM pumped, unlimited gravity with development limitations west of Red Road or Flamingo Blvd.	100 year +
C-10		200 year +
C-11	3/4" in 24 hours west of 13A 1.5" in 24 hours east of 13A	
C-12	$Q = \left(\frac{72}{\sqrt{A}} + 60 \right) A$	25 year

<u>CANAL</u>	<u>ALLOWABLE RUNOFF</u>	<u>DESIGN FREQUENCY</u>
C-13	$Q = \left(\frac{72}{\sqrt{A}} + 60 \right) A$	25 year
C-14	$Q = \left(\frac{78}{\sqrt{A}} + 54 \right) A$	25 year
C-15 C-16	$Q = \left(\frac{96}{\sqrt{A}} + 25 \right) A$ (West of 81st Ave.)	10 year
C-17	$Q = \left(\frac{90}{\sqrt{A}} + 47 \right) A$	25 year
C-18	$Q = \left(\frac{102}{\sqrt{A}} + 46 \right) A$	25 year
	$Q = \left(\frac{114}{\sqrt{A}} + 34 \right) A$	25 year

One inch in 24 hrs west of
Bee Line Hwy.

Runoff quantity is
restricted to any
frequency storm.

C-19	$Q = \left(\frac{32}{\sqrt{A}} + 64 \right) A$	
C-23	$Q = \left(\frac{47}{\sqrt{A}} + 28 \right) A$	10 year
C-24	$Q = \left(\frac{47}{\sqrt{A}} + 28 \right) A$	10 year
C-25	$Q = \left(\frac{47}{\sqrt{A}} + 28 \right) A$	10 year
C-38	$Q = \left(\frac{109}{\sqrt{A}} + 26 \right) A$	10 year

Istokopoge Indian Prairie Area
Canals

C-40 C-41 C-41A	$Q = \left(\frac{48}{\sqrt{A}} + 33 \right) A$	10 year
-----------------------	---	---------

Hillsboro Canal (east of S-39) 35 CSM

North New River Canal
(east of S-34)

$$Q = \left(\frac{116}{\sqrt{A}} + 32 \right) A$$

Runoff quantity is
restricted to any
frequency storm.

25 year

CANAL

ALLOWABLE RUNOFF

DESIGN FREQUENCY

Everglades
Agricultural
Area

Tributary to S-5A } L-8 Q = 60.5 A^{0.8}
 } L-10
 } L-12
 } L-13

5 year

L-8 west of S-76 27 CSM

All other canals in Ag. Area Q = $\left(\frac{81}{\sqrt{A}} + 13\right) A$

L-28

$$Q = \left(\frac{63}{\sqrt{A}} + 4\right) A$$

C-51

65 CSM east of Turnpike
27 CSM west of Turnpike (subject
to change upon implementation
of backpumping plan).

Runoff quantity
is restricted to
any frequency
storm.

C-100

C-100A

C-100B

C-100C

C-100D

$$Q = \left(\frac{104}{\sqrt{A}} + 43\right) A$$

10 year

C-102

$$Q = \left(\frac{119}{\sqrt{A}} + 25\right) A$$

10 year

C-103 north

C-103 south

$$Q = \left(\frac{107}{\sqrt{A}} + 39\right) A$$

10 year

C-110

$$Q = \left(\frac{137}{\sqrt{A}} + 9\right) A$$

10 year

C-111

$$Q = \left(\frac{117}{\sqrt{A}} + 29\right) A$$

10 year

C-113

$$Q = \left(\frac{142}{\sqrt{A}} + 3\right) A$$

10 year

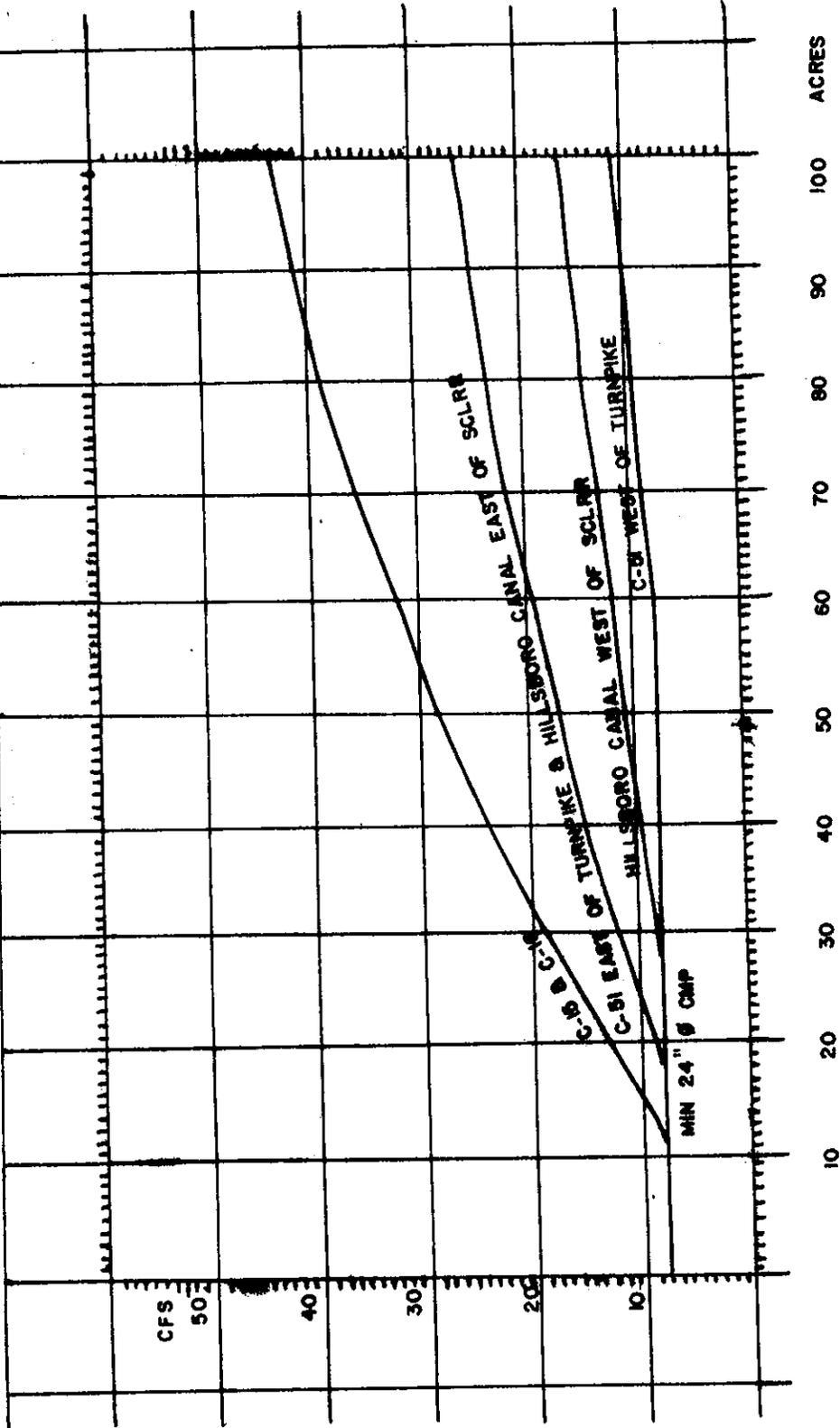
Allowable runoff curves to be used for the area within Lake Worth Drainage District are depicted on the following charts.

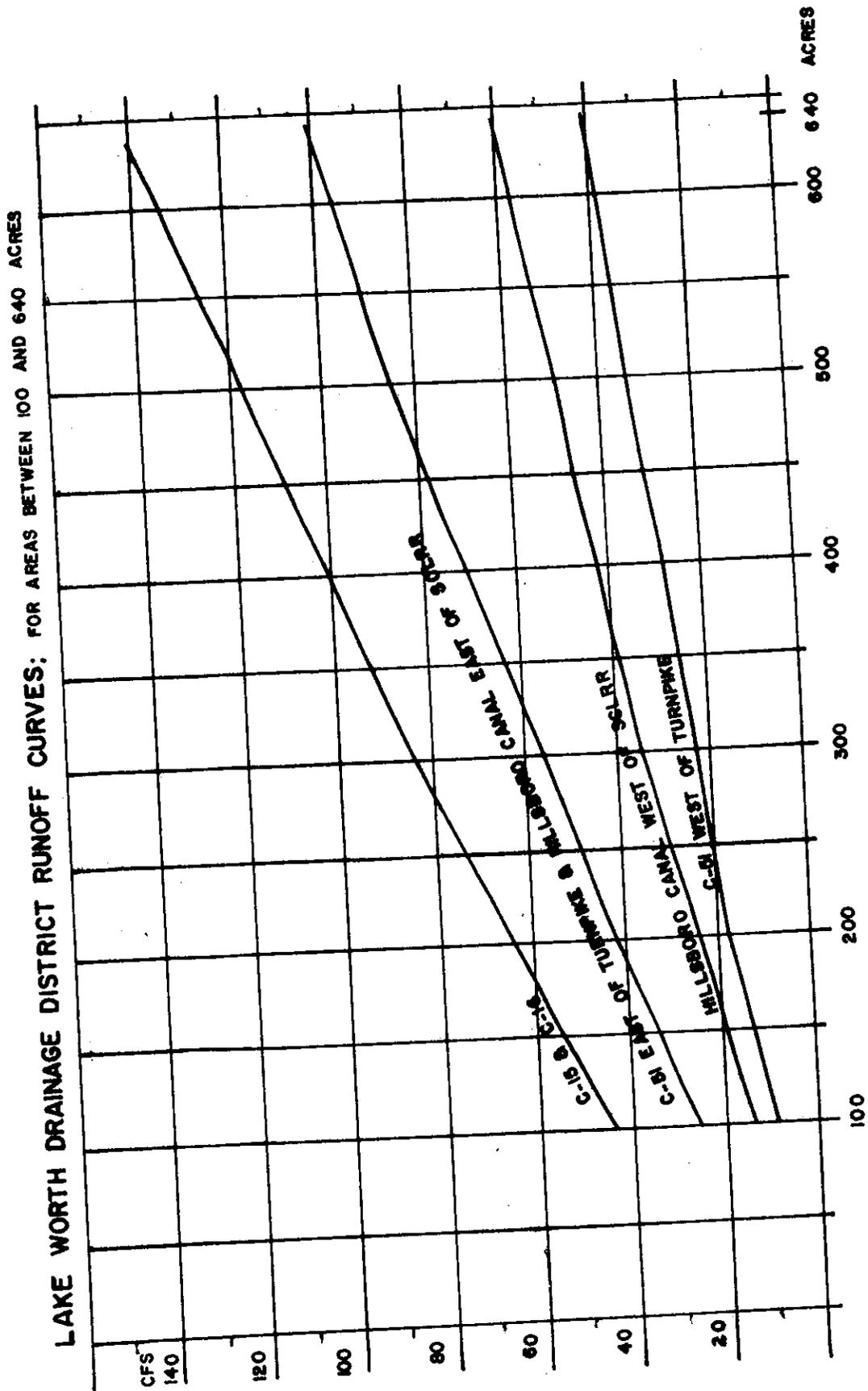
APPENDIX 3

LAKE WORTH DRAINAGE DISTRICT RUNOFF CURVES

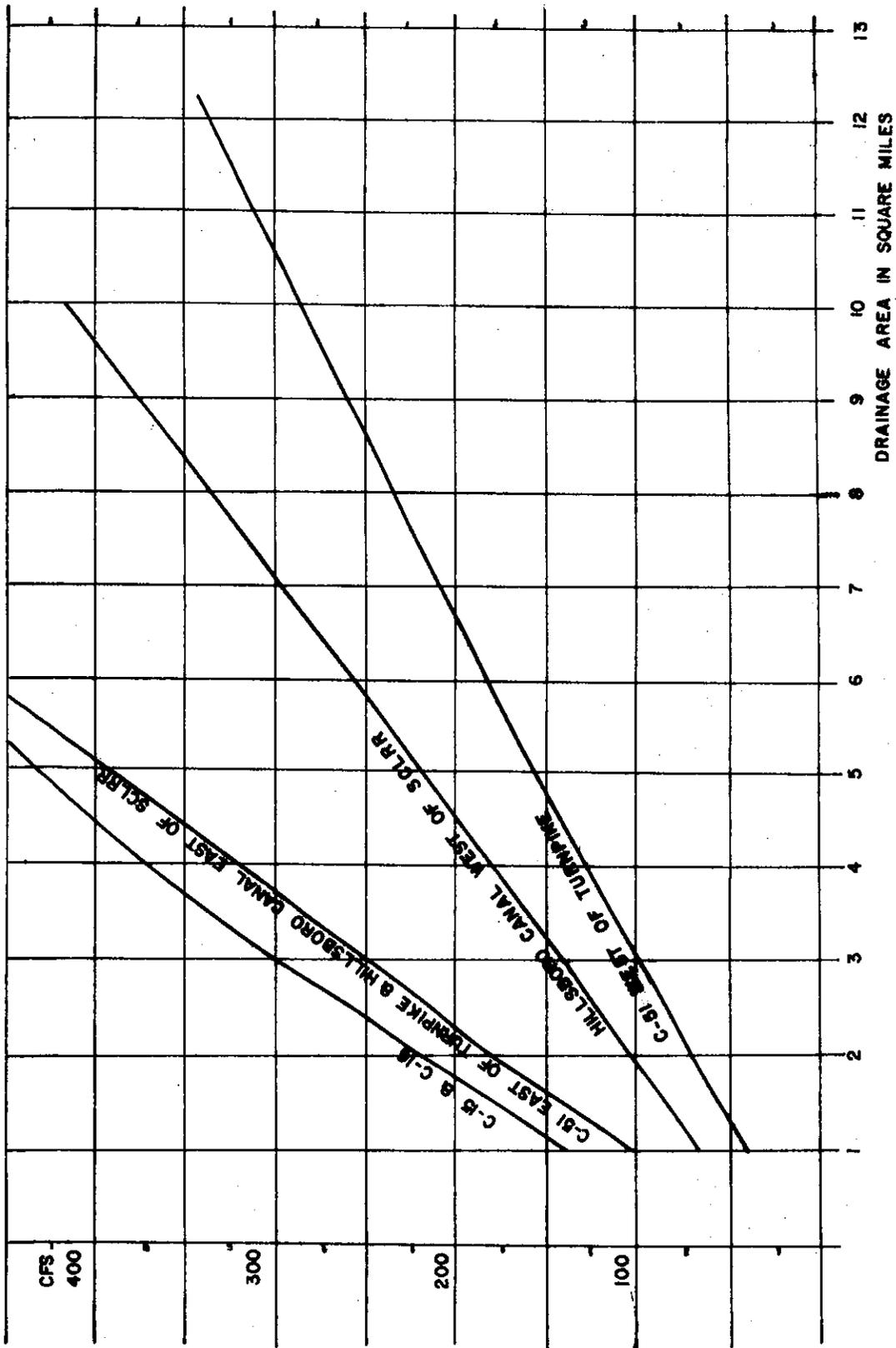
The following three sets of runoff curves refer to discharge from parcels of different areas, for a 25 year, 3 day event.

LAKE WORTH DRAINAGE DISTRICT RUNOFF CURVES: FOR AREAS OF LESS THAN 100 ACRES





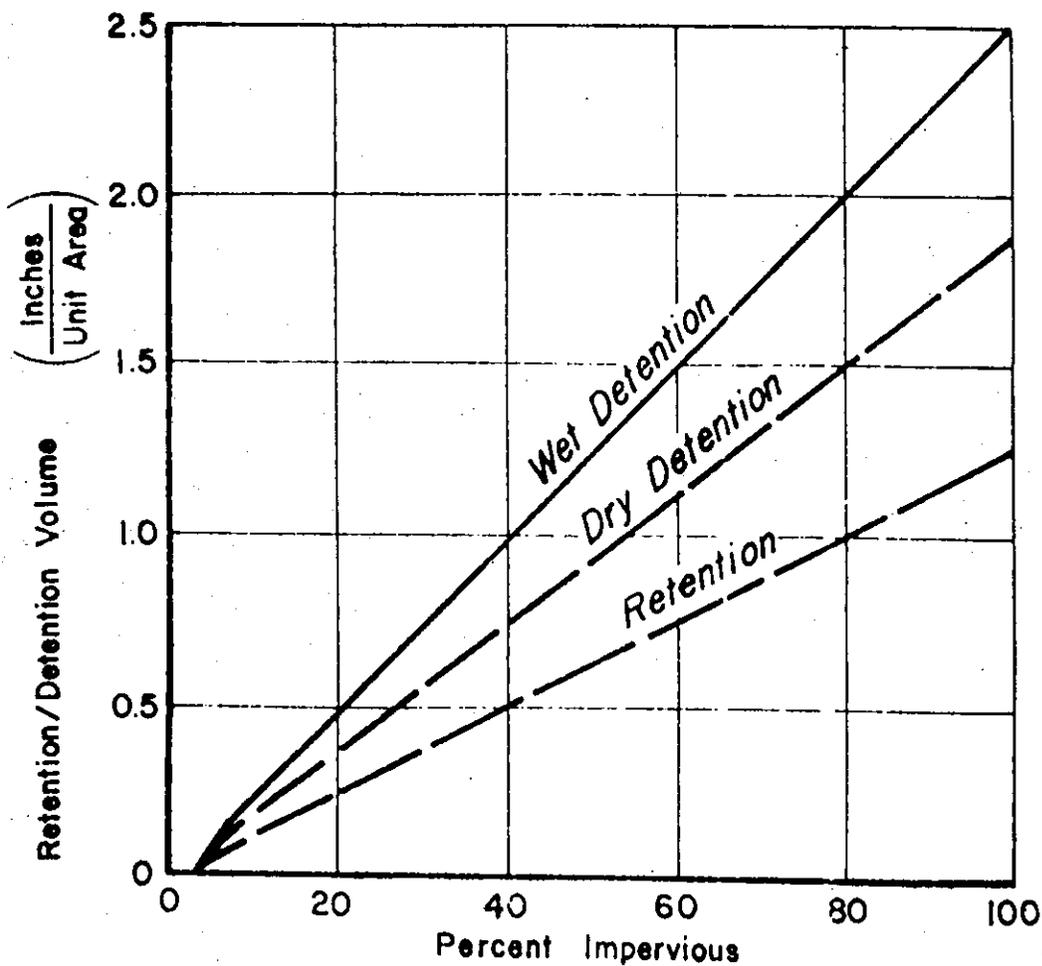
LAKE WORTH DRAINAGE DISTRICT RUNOFF CURVES : FOR AREAS OF ONE SQUARE MILE OR GREATER



APPENDIX 4

URBAN RETENTION/DETENTION

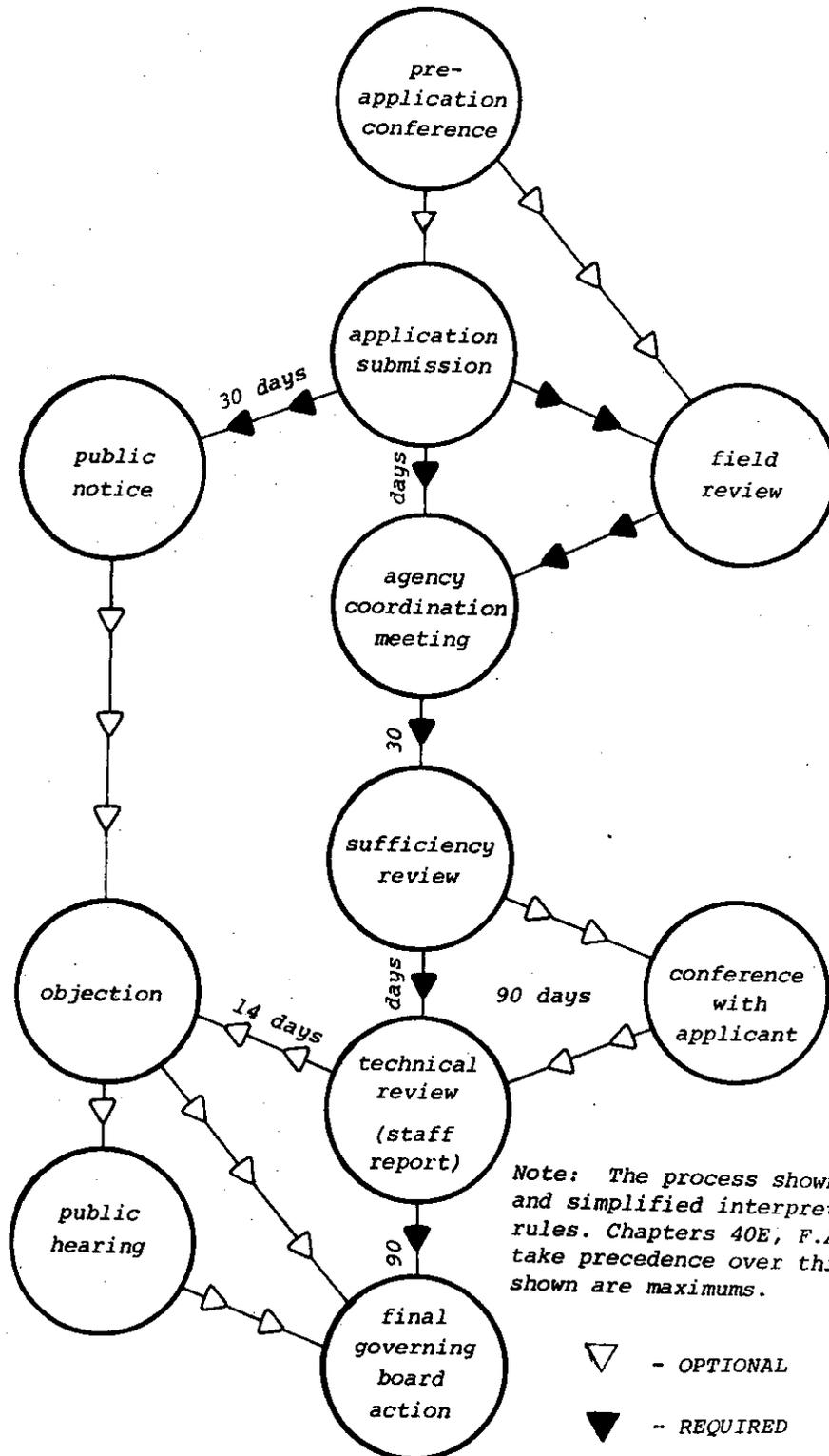
Note: Storage Req'd. Is In Addition To Normal Street & Lot Swales Which Have Already Been Accounted For In Preparation Of Curve.



Separate Storage Req'd. For Grass Swale Systems

APPENDIX 5

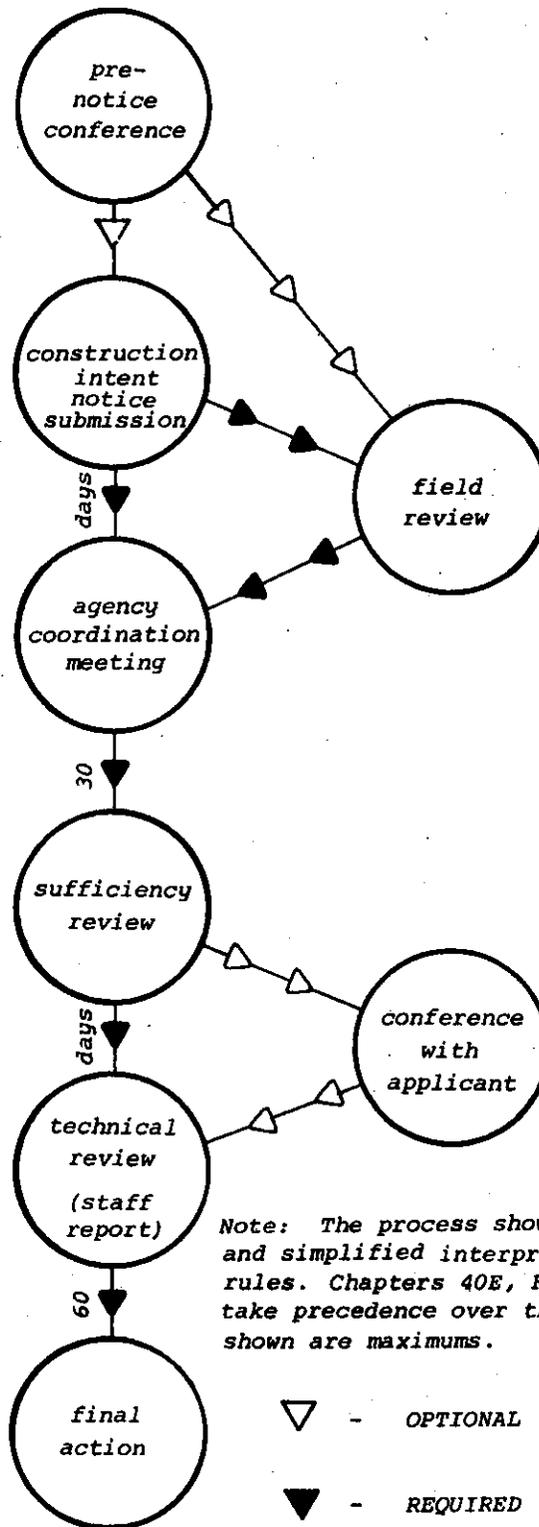
SOUTH FLORIDA WATER MANAGEMENT DISTRICT
INDIVIDUAL PERMIT PROCESS



Note: The process shown is a schematic and simplified interpretation of District rules. Chapters 40E, F.A.C. and 120, F.S. take precedence over this diagram. Times shown are maximums.

▽ - OPTIONAL
▼ - REQUIRED

APPENDIX 6
SOUTH FLORIDA WATER MANAGEMENT DISTRICT
GENERAL PERMIT PROCESS



Note: The process shown is a schematic and simplified interpretation of District rules. Chapters 40E, F.A.C. and 120 F.S. take precedence over this diagram. Times shown are maximums.

APPENDIX II

SOUTH FLORIDA WATER MANAGEMENT DISTRICT FORMS

SOUTH FLORIDA WATER MANAGEMENT DISTRICT
P.O. BOX "V"
WEST PALM BEACH, FL. 33402
TELEPHONE: (305) 686-8800 TOLL FREE: 1-800-432-2045

(FOR USE BY SFWMD PERSONNEL ONLY) DATE REC'D: _____

APPL. NO.: _____

APPLICATION TO SOUTH FLORIDA WATER MANAGEMENT DISTRICT FOR A PERMIT FOR:

- WATER USE
 SURFACE WATER MANAGEMENT (DRAINAGE) (CONCEPTUAL APPROVAL)
 UTILIZATION OF DISTRICT WORKS
 MODIFICATION OF EXISTING PERMIT NUMBER: _____

OWNER'S NAME: _____

ADDRESS: _____

CITY: _____ STATE: _____ ZIP: _____ PHONE: _____

DEVELOPER'S NAME: _____

ADDRESS: _____

CITY: _____ STATE: _____ ZIP: _____ PHONE: _____

PROJECT ENGINEER: _____

ADDRESS: _____

CITY: _____ STATE: _____ ZIP: _____ PHONE: _____

PROJECT NAME: _____

LOCATION: _____ CITY _____ COUNTY _____ SECTION(S) _____ TOWNSHIP(S) _____ S _____ E _____ RANGE(S) _____

PURPOSE: _____ ZONING: _____
(RESIDENTIAL, AGRICUL., PUB. WTR. SUPPLY, ETC.)

PROJECT SIZE: _____ ACRES

PROJECT IS: PROPOSED EXISTING TO BE MODIFIED

IF THIS APPLICATION IS FOR WATER USE, WHAT IS THE SOURCE OF WATER? _____

IF THIS APPLICATION IS FOR DRAINAGE, WHERE WILL THE WATER DISCHARGE? _____

IF THIS IS A REQUEST TO MODIFY AN EXISTING PERMIT, DESCRIBE THE REQUESTED CHANGES: _____

IF THIS APPLICATION INCLUDES USE OF DISTRICT WORKS, DESCRIBE THE USE: _____

(CULVERT, BOAT DOCK, FENCE, BEAUTIFICATION, ETC. NOTE! INCLUDE CANAL NAME)

NOTE! IN ALL CASES AN ACCURATE LOCATION MAP WITH THE PROJECT BOUNDARIES CLEARLY SHOWN MUST BE SUBMITTED. ALSO, IF THIS IS A PROPOSED OR EXPANDED PROJECT SUBMIT A CURRENT AERIAL PHOTOGRAPH SHOWING THE PROJECT BOUNDARIES.

RULES 40E-2.101, 40E-4.101, and 40E-6.101 F.A.C. SPECIFY DATA REQUIREMENTS TO CONSTITUTE A COMPLETE PERMIT APPLICATION. A LIST OF THE REFERENCED RULES IS PROVIDED ON THE BACK OF THIS FORM. ANY NECESSARY CHECKLIST MAY BE OBTAINED FROM THE DISTRICT AT THE ABOVE ADDRESS.

DATE: _____

OWNER'S SIGNATURE (IF NOT THE OWNER, CERTIFY BELOW)

I HEREBY CERTIFY THAT I AM AN AUTHORIZED AGENT OF THE OWNER:

TITLE: _____

NOTE! MANY PROJECTS ALSO REQUIRE APPROVAL BY OTHER STATE AND FEDERAL AGENCIES. SFWMD INFORMS SOME AGENCIES OF PERMIT APPLICATIONS RECEIVED BUT THE RESPONSIBILITY FOR REQUESTING APPROVALS RESTS WITH THE OWNER.

WORK USE:

40E-2.101 Content of Application.

(1) Applications for permits required by this chapter shall be filed with the District. The application shall contain:

(a) Form RC-1 "Application to the South Florida Water Management District";

(b) The information required in subsection 373.229(1), Florida Statutes; and

(c) Information sufficient to show that the use meets the criteria and conditions established in rule 40E-2.301.

(2) In addition to the information specified in subsection (1), the application shall contain:

(a) for public water supply uses, the information required in Appendix 1 of the District's "Basis of Review for Public Water System Water Use Applications-August 1980";

(b) for industrial water uses, the information required in Appendix 1 of the District's "Basis of Review of Applications for Industrial Water Use within the South Florida Water Management District-October 1980";

(c) for mining water uses, the information required in Appendix 1 of the District's "Basis of Review of Applications for Mining Water Use (Dewatering) within the South Florida Water Management District-December 1980."

(3) The application must be signed by the user or his authorized agent.

Specific Authority 373.044, 373.113 F.S.
Law Implemented 373.103(1), 373.219, 373.223, 373.229 F.S.

History - New 9-3-81, 12-1-82.

**SURFACE WATER MANAGEMENT
(DRAINAGE)**

40E-4.101 Content of Application.

(1) Applications for permits required by this chapter shall be filed with the District. The application shall contain:

(a) Form RC-1 "Application to the South Florida Water Management District"

(b) The information required in subsection 373.413(2) Florida Statutes;

(c) Drawings, calculations, and engineering details sufficient to define the nature, scope, intent and functioning of the work proposed; and

(d) The information required in Appendix 1 of the document described in paragraph 40E-4.091(1)(a).

(2) The application must be signed by the owner and his authorized agent, if applicable.
Specific Authority 373.044, 373.113 F.S.
Law Implemented 373.413, 373.416, 373.426 F.S.
History—New 9-3-81, Amended 1-31-82, 12-1-82.
Formerly 16K-4.03(2), 16K-4.07(2), 16K-4.09(2)

UTILIZATION OF DISTRICT WORKS OR LANDS

40E-6.101 Content of Application.

(1) Applications for permits required by this chapter shall be filed with the District. The application shall contain the following information:

(a) Form RC-1 "Application to the South Florida Water Management District";

(b) The applicant's name and address including zip code;

(c) The owner's name and complete address if applicant or user is other than the owner;

(d) The project location relative to County, Section, Township and Range; Lot, Block and Subdivision; or a metes and bounds description;

(e) Whether the proposed use is a modification of an existing use, or is a new use;

(f) A description of the proposed use of or encroachment on works of the District;

(g) A description of the portion of the works of the District to be used;

(h) Three copies of a scaled or fully dimensioned 8½" x 14" drawing reflecting the proposed use in plan and elevation views and as related to the applicable work of the District tied to a known reference point in the immediate area of the proposed use;

(i) Information sufficient to demonstrate that the proposed use meets the criteria established in the District's "Criteria Manual for Use of Works of the District-June 1981".

(2) Applications shall be signed by the applicant or his authorized agent.

Specific Authority 373.044, 373.113 F.S.
Law Implemented 373.085(1) F.S.

History—New 9-3-81, Amended 12-1-82.

Formerly 16K-5.04(1)

SOUTH FLORIDA WATER MANAGEMENT DISTRICT

P.O. BOX "V"

WEST PALM BEACH, FL. 33402

*****NOTICE OF INTENT TO USE WATER (CHAPTER 40-20,F.A.C.)*****

APPLICANT'S NAME: _____

PROPERTY OWNER'S NAME: _____

MAILING ADDRESS: _____

CITY _____ STATE _____ ZIP _____ PHONE () _____

PROJECT NAME: _____

PROJECT LOCATION: CITY _____ COUNTY _____

SECTION (S) _____ TOWNSHIP(S) _____ RANGE(S) _____

ADDRESS OF PROJECT: _____

CITY _____ STATE _____ ZIP _____

USE IS: () EXISTING () PROPOSED () A PERMIT TO BE MODIFIED

IF EXISTING, HOW LONG HAS IT EXISTED? _____

IF PROPOSED, HAS A SURFACE WATER MANAGEMENT PERMIT BEEN APPLIED FOR? _____

ACREAGE IS: () OWNED () LEASED NUMBER OF ACRES: _____

PURPOSE: _____

(PASTURE,GROVE,MOTEL,SWIMMING POOL SUPPLY, ETC.)

TYPE OF WATER USE: _____

(IRRIGATION, PUBLIC WATER SUPPLY, ETC.)

IF IRRIGATION, ACRES IRRIGATED? _____ ACRES

GIVE ESTIMATED AVERAGE AMOUNT OF WATER TO BE USED: _____ GPD

GIVE ESTIMATED MAXIMUM AMOUNT OF WATER TO BE USED: _____ GPD

IF A PUBLIC WATER SUPPLY, WHAT IS THE:

TREATMENT PLANT CAPACITY _____

ESTIMATED POPULATION SERVED _____

NUMBER OF UNITS SERVED _____

SOURCE DATA

() SHALLOW WELLS () FLORIDAN AQUIFER WELLS

() PUMPED

() FLOWING

() LAKE (SPECIFY NAME) _____

() CANAL/STREAM (SPECIFY NAME) _____

() OTHER (SPECIFY) _____

WELL DATA (IF APPLICABLE)

WELL NO.	DIAMETER (INCHES)	DEPTH (FT.)	CASING DEPTH	PUMP TYPE	PUMP INTAKE DEPTH	PUMP CAPACITY (GPM)

SURFACE WATER INTAKE PUMP DATA

PUMP TYPE: _____ PUMP CAPACITY: _____ GPM

NOTES:

1. INCLUDE AN ACCURATE MAP SHOWING PROPERTY BOUNDARIES, MAP SCALE, WELL LOCATION(S), AND DISTANCE, IN FEET, FROM KNOWN LANDMARKS.

2. INCLUDE A WELL DRILLER'S LOG FOR EACH NEW WELL. (FOR A PROPOSED USE THIS SHOULD BE SUBMITTED WITHIN THIRTY DAYS AFTER COMPLETION OF THE WELL). THIS LOG MUST SHOW THE CASED DEPTH.

NAME (PRINT OR TYPE) _____

APPLICANT'S SIGNATURE _____

DATE _____

SOUTH FLORIDA WATER MANAGEMENT DISTRICT
P.O. BOX "V"

WEST PALM BEACH, FL. 33402

*****NOTICE OF INTENT TO CONSTRUCT WORKS PURSUANT TO GENERAL PERMIT*****
(CHAPTER 40E-40, FLORIDA ADMINISTRATIVE CODE)

OWNER'S NAME: _____

MAILING ADDRESS: _____

(CITY)

(STATE)

(ZIP)

(PHONE)

DESCRIPTION OF THE PROPOSED PROJECT:

LOCATION: SEC(S) _____ TWP(S) _____ RGE(S) _____

COUNTY _____ TOTAL ACREAGE: _____ ACRES

NUMBER OF DWELLING UNITS OR SQUARE FEET OF COMMERCIAL AREA: _____

EVIDENCE VERIFYING ZONING COMPATIBILITY: (ATTACH DOCUMENT)

PROPOSED MINIMUM ROAD ELEVATION _____ NGVD

PROPOSED MINIMUM FLOOR ELEVATION: _____ NGVD

BRIEF DESCRIPTION OF THE WORKS TO BE CONSTRUCTED OR ALTERED: _____

ACREAGE OF IMPERVIOUS COVER: _____ ACRES

ACREAGE OF WATER MANAGEMENT AREA: _____ ACRES

INCLUDE PAVING, GRADING & DRAINAGE PLANS, CALCULATIONS, AND, IF
USING AN EXFILTRATION SYSTEM, PERCOLATION TESTS.

BRIEF STATEMENT OF FACTS WHICH SHOW WHY THE PROPOSED WORKS QUALIFY FOR A
GENERAL PERMIT: _____

(ADD EXTRA SHEET IF NECESSARY)

DATE CONSTRUCTION OR ALTERATION IS EXPECTED TO COMMENCE: _____

I HEREBY CERTIFY THAT ALL NECESSARY FEDERAL, STATE,
LOCAL AND SPECIAL DISTRICT AUTHORIZATIONS HAVE BEEN RECEIVED.

OWNER'S SIGNATURE: _____

(IF NOT THE OWNER, CERTIFY BELOW)

I HEREBY CERTIFY THAT I AM AN AUTHORIZED AGENT OF THE OWNER

SIGNATURE: _____ TITLE: _____

DATE: _____

SOUTH FLORIDA WATER MANAGEMENT DISTRICT
P. O. BOX "V"
WEST PALM BEACH, FLORIDA 33402-4238
Phone: (305) 686-8800, Toll Free 1-800-432-2045

REQUEST FOR PERMIT EXEMPTION PURSUANT TO

RULE 40E-4.053, FLORIDA ADMINISTRATIVE CODE
(SURFACE WATER MANAGEMENT)

NOTE: A reprint of Rules 40E-4.052, 40E-4.053 and 40E-4.054 is included on the back of this form and contains specific requirements to constitute a complete submittal.

OWNER'S NAME: _____

ADDRESS: _____
(Street)

(City) (State) (Zip)

PROJECT ENGINEER: _____

ADDRESS: _____
(Street)

(City) (State) (Zip)

PROJECT NAME: _____

PROJECT LOCATION _____ COUNTY _____ SEC. _____ TWP _____ RGE _____

TOTAL PROJECT ACREAGE: _____ TOTAL IMPERVIOUS ACREAGE _____

TYPE OF PROJECT: _____ ZONING: _____
(Residential, Agricultural, Etc.)

PROPOSED FINISHED FLOOR ELEVATION: _____ (NGVD)

OPERATIONAL ENTITY: _____
(Who will operate and maintain the drainage system?)

In submitting this request for permit exemption, I hereby certify that the conditions for exemption pursuant to Rule 40E-4.053, F.A.C., have been or are proposed to be met upon construction, including but not limited to that:

1. The total land area does not equal or exceed 10 acres;
2. The area of impervious surface will not equal or exceed 2 acres;
3. The activities will not be conducted in wetlands;
4. The activities will not be conducted in existing water bodies;
5. The activities will not utilize pumps;
6. The activities will not utilize storm drainage facilities larger than a 24 inch diameter pipe, or its hydraulic equivalent;
7. The site is not included in more than 40 acres of contiguous potentially exempt lands;
8. Discharges from the site will meet State water quality standards, as set forth in Chapter 17-3;
9. The surface water management facilities are part of an approved Conservation Plan, if the facilities serve agricultural lands;
10. The proposed building floors will be above the 100 year flood elevation;
11. The activities can otherwise reasonably be expected to have acceptable or insignificant water resource impacts; and
12. The surface water management system can be effectively maintained.

OWNER'S SIGNATURE: _____ DATE: _____

NOTE: This form must be signed by the Owner

40E-4.052 Request for Exemption.

(1) Requests for an exemption for projects less than 10 acres of total land area should be filed with the District. This request shall contain:

(a) Form PA-39.

(b) The paving and drainage plan of the area showing:

1. the total land area;
2. the total area of impervious surface;
3. the location of any on-site wetlands;
4. the location and details of the surface water management system including but not limited to any lakes, culverts, pipes, exfiltration trench, discharge structures, pump and related facilities.

5. The surface water management system design plans must be signed and sealed by a Florida registered Professional Engineer, if required by chapter 471, Florida Statutes.

(c) Evidence of local government approval of the project. The applicant or local government may request non-binding District comments on a project, if necessary for the applicant to obtain evidence of local government approval.

(d) Affidavit of ownership of the property which shall include:

1. the legal description;
 2. a statement that the total contiguous property owned or controlled by the applicant does not exceed 10 acres.
- Specific Authority 373.044, 373.113 F.S.
Law Implemented 373.406, 373.413 F.S.
History--New.

40E-4.053 Conditions for Exemption.

In order to obtain an exemption under this part, an applicant must give reasonable assurances that:

1. The total land area does not equal

or exceed 10 acres;

2. The area of impervious surface will not equal or exceed 2 acres;

3. The activities will not be conducted in wetlands;

4. The activities will not be conducted in existing water bodies;

5. The activities will not utilize pumps;

6. The activities will not utilize storm drainage facilities larger than a 24 inch diameter pipe, or its hydraulic equivalent;

7. The site is not included in more than 40 acres of contiguous potentially exempt lands;

8. Discharges from the site will meet State water quality standards, as set forth in Chapter 17-3;

9. The surface water management facilities are part of an approved Conservation Plan, if the facilities serve agricultural lands;

10. The proposed building floors will be above the 100 year flood elevation;

11. The activities can otherwise reasonably be expected to have acceptable or insignificant water resource impacts; and

12. The surface water management system can be effectively maintained.

Specific Authority 373.044, 373.113 F.S.

Law Implemented 373.406, 373.413 F.S.

History--New.

40E-4.054 Modification of Exempt Projects.

Any modification of a surface water management system in a project which has received a Notice of Exemption, must have the prior written approval of the District. A surface water management permit may be required for substantial modifications of previously exempt projects.

Specific Authority 373.044, 373.113 F.S.

Law Implemented 373.406, 373.413 F.S.

History--New.

REQUEST FOR PERMIT TRANSFER

Surface Water Management ()
Water Use () Check Appropriate Box
Use of District Works ()

South Florida Water Management District
P. O. Box V
West Palm Beach, Florida 33402-4238

Date _____

Gentlemen:

It is requested that District Permit(s) No(s) _____ authorizing

_____ be transferred

FROM: Name: _____
Address: _____
City: _____ State: _____ Zip: _____

TO: Name: _____
Address: _____
City: _____ State: _____ Zip: _____

The reason(s) for this permit transfer is (are) _____

It is agreed that all terms and conditions of the permit and subsequent modifications, if any, are understood and accepted. Any proposed modification shall be applied for and obtained prior to such modification.

Attached is a letter of release from the previous permittee, a copy of the instrument transferring ownership of the property. If applicable, also attached is a copy of the instrument establishing the applicant corporation/limited partnership/general partnership, etc., as a legal entity.

Yours very truly,

Applicant

By _____
Name

Its _____
Title

Enclosures:

1. Letter of release
2. Copy of transfer of ownership
3. Copy of establishment of corporation

NOTICE OF INTENT TO USE WATER IN CONJUNCTION WITH
OIL WELL DRILLING IN LEE, COLLIER AND HENDRY
COUNTIES (Chapter 40 E-20)

SUBMITTED TO: Governing Board of
South Florida Water Management District
Post Office Box "Y"
West Palm Beach, Florida 33402

1. THE NAME OF THE PERMITTEE: _____
2. THE NAME OF THE PROPOSED PROJECT: _____
3. THE LOCATION OF THE PROJECT: (Please attach location sketch) _____
4. A BRIEF DESCRIPTION OF THE PROJECT: _____
5. THE NAME OF THE WATER WELL DRILLER: _____
6. A BRIEF STATEMENT OF FACTS WHICH SHOW WHY THE PROPOSED USE OR WITHDRAWAL QUALIFIES FOR A GENERAL PERMIT: _____

7. A STATEMENT THAT ALL NECESSARY FEDERAL, STATE, LOCAL AND SPECIAL DISTRICT AUTHORIZATIONS HAVE BEEN RECEIVED OR WILL BE RECEIVED PRIOR TO INITIATION OF DRILLING OR ANY ACTIVITY AT THE SITE, WHERE REQUIRED: (Please list pertinent permit numbers or attach copies of the permits)

8. THE DATE ON WHICH USE OR WITHDRAWAL IS EXPECTED TO COMMENCE: _____
9. ESTIMATED AMOUNT OF WATER TO BE WITHDRAWN FROM EACH WELL: _____
10. SURFACE DISCHARGES OF SALT WATER, IF ANY: _____
11. ENVIRONMENTAL IMPACT OF THE WATER WITHDRAWAL: _____
12. LOCATION OF ANY SURFACE WATER USE OTHER THAN THAT OF PERMITTEE WITHIN 300 FEET OF THE PROPOSED WATER WELLS: _____

I HEREBY CERTIFY THAT ALL NECESSARY FEDERAL, STATE, LOCAL AND SPECIAL DISTRICT AUTHORIZATIONS HAVE BEEN OR WILL BE RECEIVED PRIOR TO INITIATION OF DRILLING OR ANY ACTIVITY AT THE SITE.

Permittee's Name (type or print) _____
Signature _____ Date _____

