

Rules of the South Florida Water Management District

Water Reservations Rule Chapter 40E-10, F.A.C



Effective: March 18, 2010

CHAPTER 40E-10 WATER RESERVATIONS

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40E-10.011 Policy and Purpose.

The purpose of this chapter is to define the quantity, location and timing of waters reserved from allocation for the protection of fish and wildlife pursuant to Section 373.223(4), F.S., for specified water bodies. Water reservations are implemented in the water use program pursuant to Chapters 40E-2 and 40E-20, F.A.C.

Rulemaking Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.016, 373.026, 373.036, 373.1501, 373.1502, 373.219, 373.223, 373.4592, 373.4595, 373.470 FS. History—New 7-2-09.

40E-10.021 Definitions.

(1) *Fakahatchee Estuary* – The area within the Ten Thousand Islands region including the following river/bay systems, from west to east: Blackwater River/Blackwater Bay, Whitney River/Buttonwood Bay, Pumpkin River/Pumpkin Bay, Wood River, Little Wood River and Faka Union Canal/Faka Union Bay, and Fakahatchee Bay as depicted in Figure 2 Fakahatchee Estuary.

(2) *Picayune Strand* – The area located southwest of the Florida Panther National Wildlife Refuge, north of the Ten Thousand Islands NWR, east of the South Belle Meade State Conservation and Recreation Lands (CARL) Project, west of the Fakahatchee Strand Preserve State Park, and northeast of Collier-Seminole State Park as depicted in Figure 1 Picayune Strand. The legal description of the Picayune Strand is contained in Appendix 1.

(3) *North Fork of the St. Lucie River* – The area that extends from the Gordy Road structure (state plane coordinates, x851212.831, y1116105.7470), to the confluence of the North Fork of the St. Lucie River and the C-24 canal (state plane coordinates, x873,712.20, y1064,390.41) as depicted in Appendix 3, Figure 3-1.

Rulemaking Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.016, 373.026, 373.036, 373.1501, 373.1502, 373.219, 373.223, 373.4592, 373.4595, 373.470 FS. History—New 7-2-09, Amended 3-18-10.

40E-10.031 Water Reservations Implementation.

(1) Applicants for consumptive use permits shall meet the requirements of this rule by providing reasonable assurances that Rules 40E-2.301 and 40E-20.301, F.A.C., and Section 3.11 of the “Basis of Review for Water Use Permit Applications within the South Florida Management District”, incorporated by reference in Rules 40E-2.091 and 40E-20.091, F.A.C., are met.

(2) Water reserved for the protection of fish and wildlife contained within the Picayune Strand and Fakahatchee Estuary is defined in subsections 40E-10.041(1)-(2), F.A.C.

(3) Water reserved for the protection of fish and wildlife contained within the North Fork of the St. Lucie River is defined in subsection 40E-10.051(1), F.A.C.

Rulemaking Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.016, 373.026, 373.036, 373.1501, 373.1502, 373.219, 373.223, 373.4592, 373.4595, 373.470 FS. History—New 7-2-09, Amended 3-18-10.

40E-10.041 Water Reservation Areas: Lower West Coast Planning Area.

(1) Picayune Strand as defined in subsection 40E-10.021(2), F.A.C.:

(a) Surface waters:

1. All surface water contained within the Picayune Strand are reserved from allocation (see Figure 1).

2. All surface water flowing into the Picayune Strand identified below is reserved from allocation:

i. The surface water flows depicted on Figures 3. A, B, and C, simulated at weir ‘Miller2’ within the Miller Canal (see Figure 1);

ii. The surface water flows depicted on Figures 4. A, B, and C, simulated at weir ‘FU3’ within the Faka Union Canal (see Figure 1); and

iii. The surface water flows depicted on Figures 5. A, B and C simulated at spillway ‘Lucky LA’ within the Merritt Canal (see Figure 1).

(b) Groundwater: All groundwater in the water table and unconfined portions of Lower Tamiami aquifer underlying the Picayune Strand is reserved from allocation.

Notwithstanding the above, presently existing legal uses for the duration of the permit existing on July 2, 2009 are determined to be not contrary to the public interest, pursuant to Section 373.223(4), F.S.

(2) Fakahatchee Estuary as defined in subsection 40E-10.021(1), F.A.C.:

(a) Surface waters:

The surface water flows into the Fakahatchee Estuary identified below are reserved from allocation:

1. The surface water flows depicted on Figures 6. A, B and C simulated at Faka Union Canal at structure FU1 (See Figure 2);

2. The surface water flows depicted on Figures 7. A, B and C simulated at ‘Miller@41’ transect (beginning at coordinate 471365.13N, 599423.29 E Southeast to

479226.67N, 595105.77E (delivering surface water to Blackwater Bay and Buttonwood Bay) see Figure 2);

3. The surface water flows depicted on Figures 8. A, B and C simulated at 'FU@41' transect (beginning at coordinate 480427.89N, 595005.67E Southeast to 487735.34N, 592478.09E (delivering surface water to Pumpkin Bay) see Figure 2);

4. The surface water flows depicted on Figures 9. A, B and C simulated at 'Merritt@41' transect (beginning at coordinate 490942.49N, 593218.49E flowing Southeast to 499050.54N, 590515.81E (delivering surface water to Faka Union Bay) see Figure 2); and

5. The surface water flows depicted on Figures 10. A, B and C simulated at 'Fakahatchee@41' transect (beginning at coordinate 498623.81N, 587955.37E Southeast to 533587.95N, 575807.53E (delivering surface water to Fakahatchee Bay) see Figure 2).

(b) Groundwater: All groundwater in the water table and unconfined portions of Lower Tamiami aquifer underlying the Fakahatchee Estuary is reserved from allocation. Notwithstanding the above, presently existing legal uses for the duration of the permit existing on July 2, 2009 are determined to be not contrary to the public interest, pursuant to Section 373.223(4), F.S.

(3) Reservations contained in this section shall be reviewed in light of changed conditions or new information by December 31, 2014.

Rulemaking Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.016, 373.026, 373.036, 373.1501, 373.1502, 373.219, 373.223, 373.4592, 373.4595, 373.470 FS. History—New 7-2-09, Amended 3-18-10.

40E-10.051 Water Reservation Areas: Upper East Coast Planning Area.

North Fork of the St. Lucie River, as defined in subsection 40E-10.021(3), F.A.C.

(1) Surface waters up to and including the mean monthly flow of 130 cubic feet per second flowing over the Gordy Road Structure from November 1st through May 31st; see Appendix 3, Figure 3-2; are reserved from allocation. The water reserved under this Rule will be available for fish and wildlife upon formal determination of the Governing Board, pursuant to state and federal law, that any one or all of the Comprehensive Everglades Restoration Plan's C-23/C-24 North and South Reservoirs and STA Project are operational.

(2) Reservations contained in this Rule and the criteria contained in section 3.11.2 of the "Basis of Review for Water Use Permit Applications within the South Florida Water Management District," incorporated by reference in Rule 40E-2.091, F.A.C., shall be revised pursuant to Section 373.223(4), F.S., in light of changed conditions or new information and concurrent with the approval specified in subsection (1), above.

Notwithstanding the above, presently existing legal uses for the duration of a permit existing on March 18, 2010 are determined to be not contrary to the public interest pursuant to Section 373.223(4), F.S.

Rulemaking Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.016, 373.026, 373.036, 373.1501, 373.1502, 373.219, 373.223, 373.4592, 373.4595, 373.470 FS. History—New-3-18-10.

**APPENDIX 1 TO CHAPTER 40E-10
LEGAL DESCRIPTION OF PICAYUNE STRAND
AS DEFINED IN SUBSECTION 40E-10.021(1)**

A tract of land in Townships 50, 51 and 52 South, Ranges 27 and 28 East, Collier County, Florida, more particularly described as follows:

Beginning at the Southeast Corner of Section 25, Township 51 South, Range 28 East, Collier County, Florida, run S 89°10'50" W, 2659.84 feet to the South Quarter Corner of said Section 25; thence S 89°09'41" W, 2659.37 feet to the Southwest Corner of said Section 25; thence S 00°19'11" W, 2611.61 feet to the East Quarter Corner of Section 35 of said Township 51 South, Range 28 East;

thence S 88°56'33" W, 2652.73 feet to the Northeast Corner of the Southwest Quarter of said Section 35; thence S 00°18'15" W, 2614.86 feet to the South Quarter Corner of said Section 35; thence S 88°54'23" W, 2650.59 feet to the Southwest Corner of Section 35; thence S 88°50'39" W, 2639.94 feet to the South Quarter Corner of Section 34 of said Township 51 South, Range 28 East;

thence S 89°00'23" W, 2652.66 feet to the Southwest Corner of said Section 34;

thence S 88°44'21" W along the north line of the Northeast Quarter of Section 4, Township 52 South, Range 28 East, 1450.32 feet to the Northeast Corner of those lands described in Official Record Book 2624, Page 2509, Public Records of Collier County, Florida; thence S 00°27'37" E along the east line of said lands, 6308.01 feet; thence continuing along said east line, S 89°34'56" W, 16.37 feet;

thence continuing along said east line, S 00°25'04" E, 360.00 feet to the north right-of-way line of U.S. Highway 41; thence westerly along the north right-of-way line of U.S. Highway 41, S 84°52'54" W, 327.99 feet; thence N 05°07'06" W, 39.00 feet to a point on a non-tangent curve; thence westerly 900.69 feet along the arc of said curve, concave to the northeast, having a radius of 1835.08 feet, a central angle of 28°07'18" and a chord of 891.68 feet, bearing N 81°03'27" W;

thence S 23°00'12" W, 39.00 feet; thence N 66°59'48" W, 5570.19 feet to a point of curvature; thence northwesterly 800.00 feet along the arc of a curve, concave to the southwest, having a radius of 17224.80 feet, a central angle of 02°39'40" and a chord of 799.93 feet, bearing N 68°19'38" W to a point of tangency;

thence N 69°39'28" W, 6844.52 feet; thence N 20°20'32" E, 39.00 feet to a point on a non-tangent curve; thence northwesterly 671.08 feet along the arc of said curve, concave to the northeast, having a radius of 1835.08 feet, a central angle of 20°57'10" and a chord of 667.35 feet, bearing N 59°10'53" W; thence S 41°17'43" W, 39.00 feet; thence N 48°42'17" W, 6815.31 feet to a point of curvature; thence northwesterly 442.16 feet along the arc of a curve, concave to the southwest, having a radius of 725.20 feet, a central angle of 34°56'02" and a chord of 435.35 feet, bearing N 66°10'19" W to a point of tangency; thence N 83°38'20" W, 300.77 feet to the intersection of the north right-of-way line of U.S. Highway 41 with the west line of Section 36, Township 51 South, Range 27 East;

thence N 00°03'59" E along the west line of said Section 36, 1586.32 feet to the Northwest Corner of Section 36; thence N 01°15'40" W, 2658.40 feet, to the West Quarter Corner of Section 25 of said Township 51 South, Range 27 East;

thence N 01°17'06" W, 2656.42 feet to the Northwest Corner of said Section 25;

thence N 01°16'05" W, 2655.83 feet to the West Quarter Corner of Section 24 of said Township 51 South, Range 27 East; thence N 01°16'15" W, 2656.76 feet to the Northwest Corner of said Section 24; thence N 00°19'01" E, 2764.38 feet to the West Quarter Corner of Section 13 of said Township 51 South, Range 27 East; thence N 00°19'04" E, 2764.32 feet to the Northwest Corner of said Section 13; thence N 01°15'53" E, 2764.69 feet to the West Quarter Corner of Section 12 of said Township 51 South, Range 27 East; thence N 01°16'08" E, 2764.72 feet to the Northwest Corner of said Section 12; thence N 00°37'07" E, 2763.78 feet to the West Quarter Corner of Section 1 of said Township 51 South, Range 27 East; thence N 00°35'09" E, 2732.08 feet to the Northwest Corner of said Section 1; thence N 01°09'58" E, 2697.35 feet to the West Quarter Corner of Section 36 of Township 50 South, Range 27 East; thence N 01°14'25" E, 2554.73 feet to the Northwest Corner of said Section 36; thence N 00°49'11" E, 2618.76 feet to the West Quarter Corner of Section 25 of said Township 50 South, Range 27 East;

thence N 01°30'13" E, 2623.02 feet to the Northwest Corner of said Section 25;

thence N 01°14'51" E, 2643.78 feet to the West Quarter Corner of Section 24 of said Township 50 South, Range 27 East; thence N 00°55'45" E, 2647.27 feet to the Northwest Corner of said Section 24; thence N 89°04'28" W, 2655.08 feet to the South Quarter Corner of Section 14 of said Township 50 South, Range 27 East; thence N 89°06'09" W, 2673.56 feet to the Southwest Corner of said Section 14; thence N 01°20'52" E, 2642.45 feet to the West Quarter Corner of said Section 14; thence N 01°02'27" E, 2638.34 feet to the Northwest Corner of said Section 14; thence S 88°57'18" E, 2650.45 feet to the North Quarter Corner of said Section 14; thence S 89°16'05" E, 2679.46 feet to the Northeast Corner of said Section 14; thence N 00°32'07" E, 2629.53 feet to the West Quarter Corner of Section 12 of said Township 50 South, Range 27 East; thence N 00°05'55" E, 2655.64 feet to the Northwest Corner of said Section 12; thence N 00°35'20" E, 2638.33 feet to the West Quarter Corner of Section 1 of said Township 50 South, Range 27 East; thence N 09°11'51" W along the west line of the Northwest Quarter of said Section 1 a distance of 2352.20 feet to the intersection with the south line of the south drainage right-of-way of Interstate 75; thence easterly along said line, N 89°40'16" E, 2640.00 feet; thence S 88°14'35" E, 2676.02 feet;

thence S 89°13'04" E, 2656.26 feet; thence N 89°51'50" E, 2650.84 feet;

thence N 89°28'53" E, 2647.15 feet; thence S 89°53'38" E, 2654.08 feet;

thence S 89°59'57" E, 2650.10 feet; thence N 89°51'03" E, 2650.97 feet;

thence S 89°32'18" E, 2648.17 feet; thence N 89°47'26" E, 2686.92 feet;

thence N 00°23'28" W, 124.56 feet; thence S 89°54'09" E, 2649.59 feet;

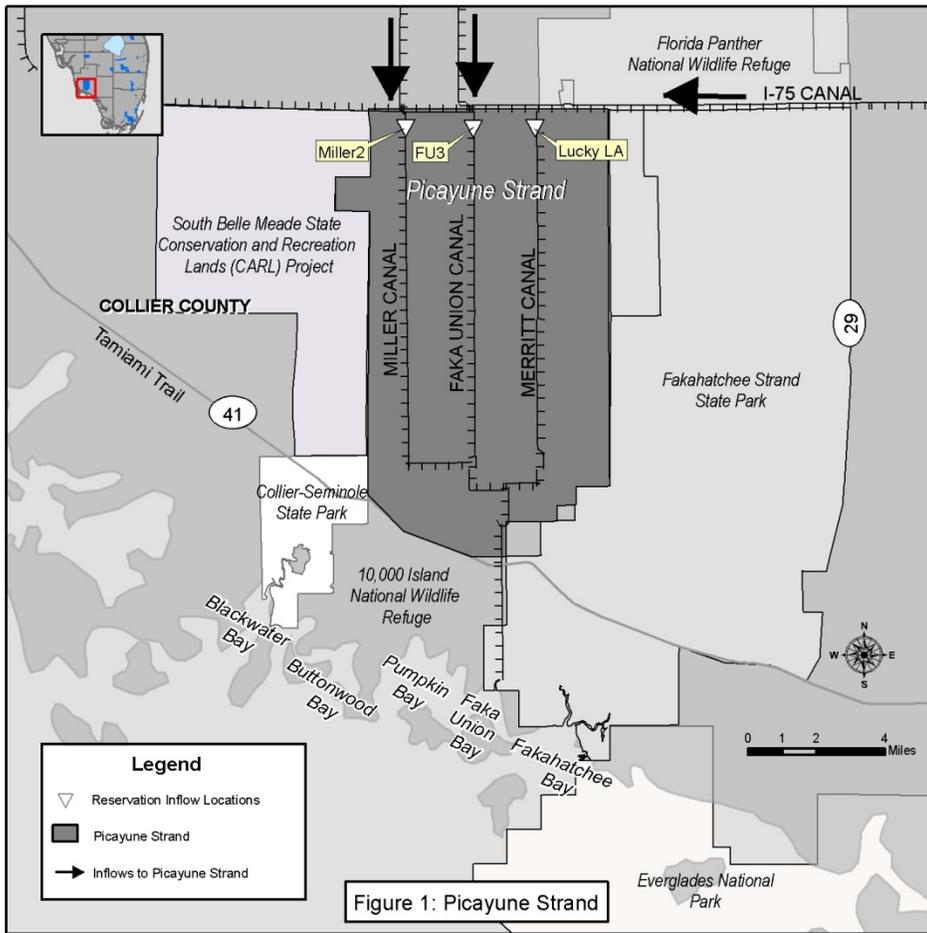
thence S 89°56'18" E, 2651.63 feet; thence N 89°41'16" E, 2652.50 feet;

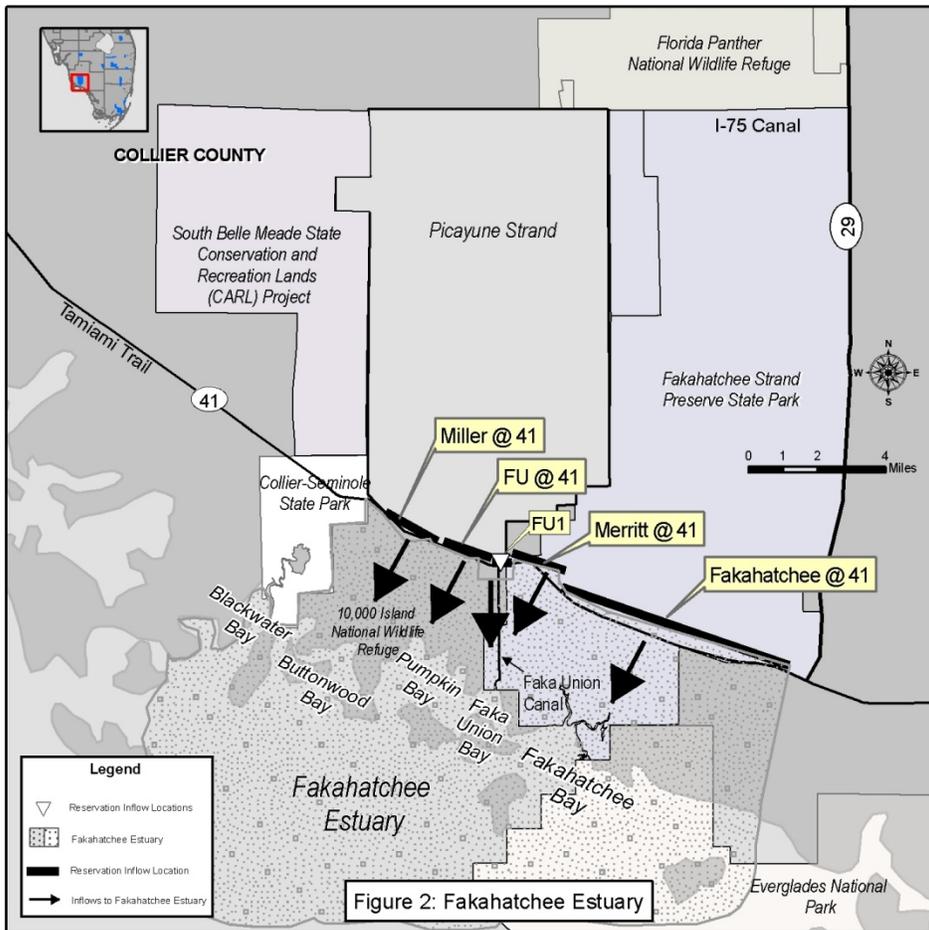
thence S 89°49'15" E, 2651.54 feet to the intersection of the south line of said south drainage right-of-way with the east line of Section 1, Township 50 South, Range 28 East; thence S 00°18'22" E along the east line of the Northeast Quarter of said Section 1 a distance of 2460.78 feet to the East Quarter Corner of said Section 1; thence S 00°18'26" E, 2663.16 feet to the Southeast Corner of said Section 1; thence S 00°19'17" E, 2661.71 feet to the East Quarter Corner of Section 12 of said Township 50 South, Range 28 East; thence S 00°18'47" E, 2661.88 feet to the Southeast Corner of said Section 12; thence S 00°18'10" E, 2662.06 feet to the East Quarter Corner of

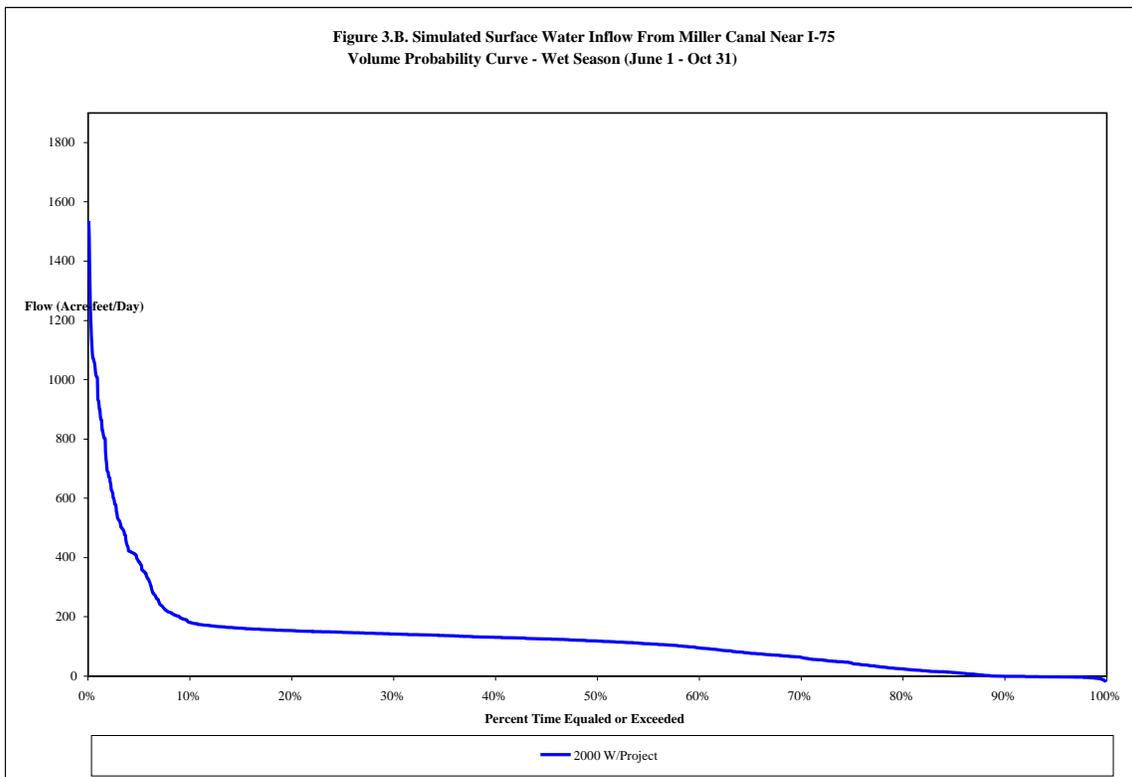
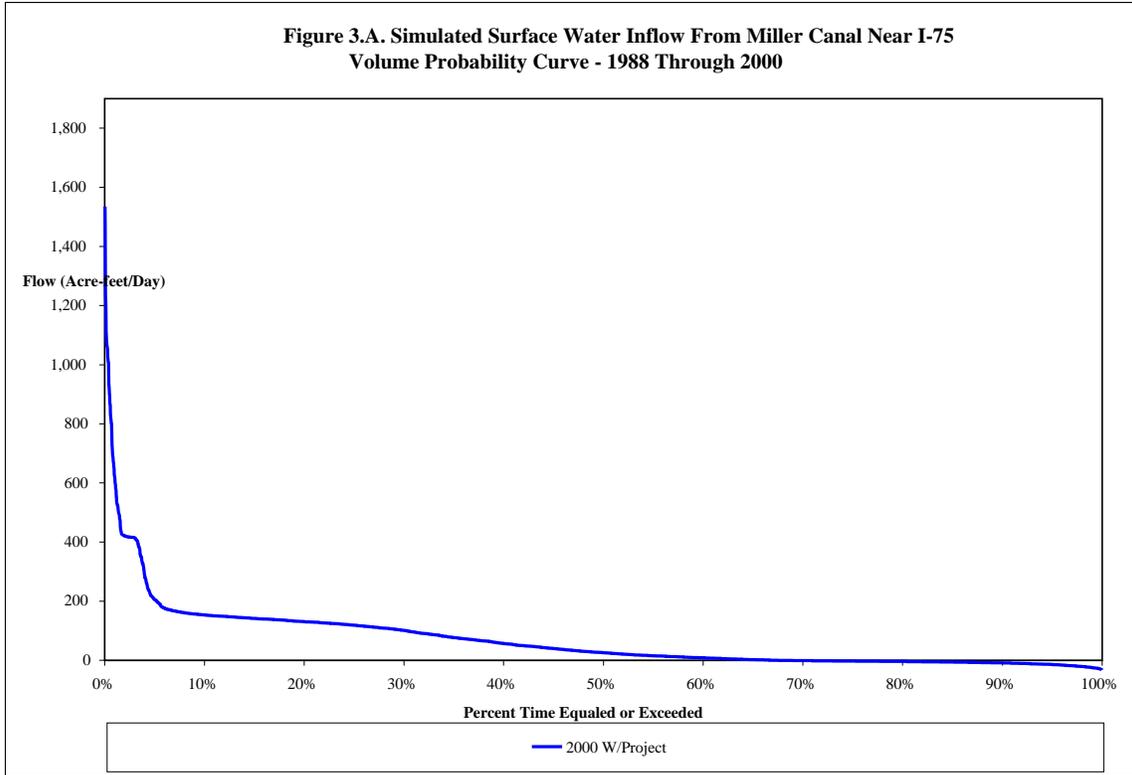
Section 13 of said Township 50 South, Range 28 East; thence S 00°18'16" E, 2662.13 feet to the Southeast Corner of said Section 13; thence S 00°18'16" E, 2662.14 feet to the East Quarter Corner of Section 24 of said Township 50 South, Range 28 East; thence S 00°17'28" E, 2661.81 feet to the Southeast Corner of said Section 24; thence S 00°17'38" E, 2674.16 feet to the East Quarter Corner of Section 25 of said Township 50 South, Range 28 East; thence S 00°10'00" E, 2674.56 feet to the Southeast Corner of said Section 25; thence S 00°13'47" E, 2674.47 feet to the East Quarter Corner of Section 36 of said Township 50 South, Range 28 East; thence S 00°13'47" E, 2674.49 feet to the Southeast Corner of said Section 36; thence S 00°51'18" E, 2682.32 feet to the East Quarter Corner of Section 1 of Township 51 South, Range 28 East; thence S 00°51'18" E, 2682.32 feet to the Southeast Corner of said Section 1; thence S 00°28'26" W, 2596.09 feet to the East Quarter Corner of Section 12 of said Township 51 South, Range 28 East; thence S 00°41'47" W, 2598.68 feet to the Southeast Corner of said Section 12; thence southerly along the east line of Section 13, Township 51 South, Range 28 East, S 00°35'55" W, 5191.01 feet to the Southeast Corner of said Section 13; thence S 00°36'41" W, 2596.95 feet to the East Quarter Corner of Section 24 of said Township 51 South, Range 28 East; thence S 00°34'08" W, 2597.43 feet to the Southeast Corner of said Section 24; thence S 00°33'57" W, 2596.90 feet to the East Quarter Corner of Section 25 of said Township 51 South, Range 28 East; thence S 00°34'27" W, 2597.76 feet to the Southeast Corner of said Section 25 and the Point of Beginning.

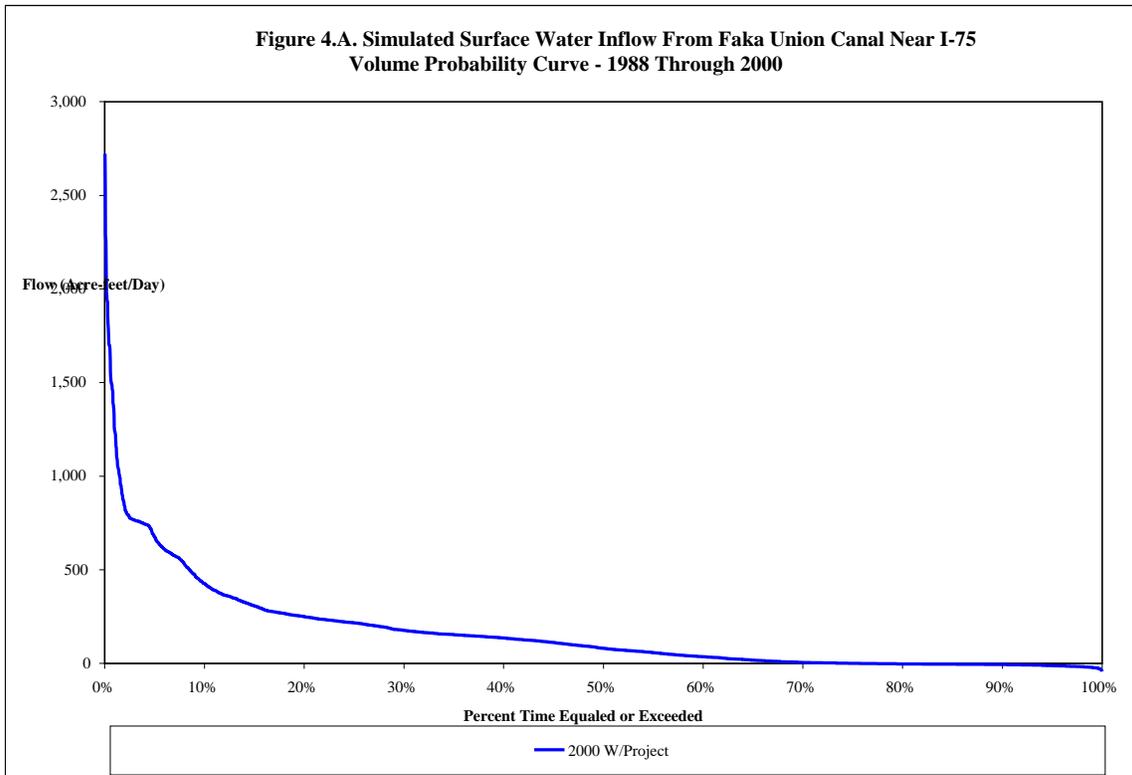
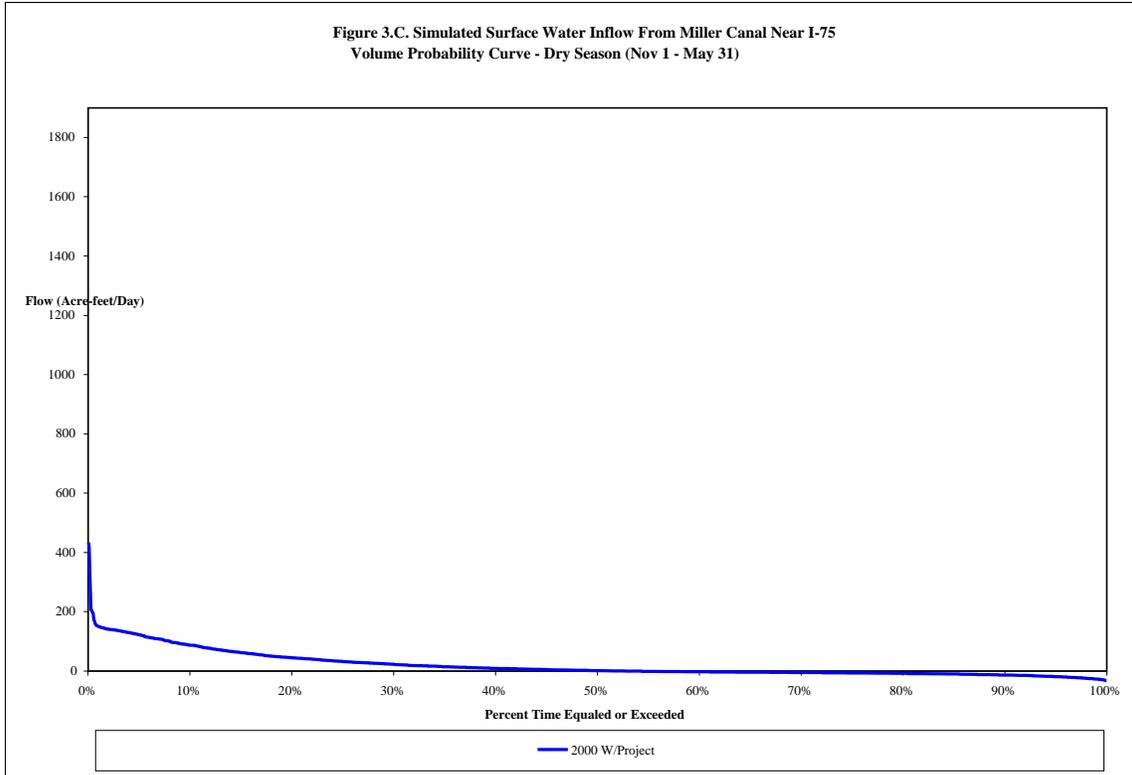
APPENDIX 2 TO CHAPTER 40E-10

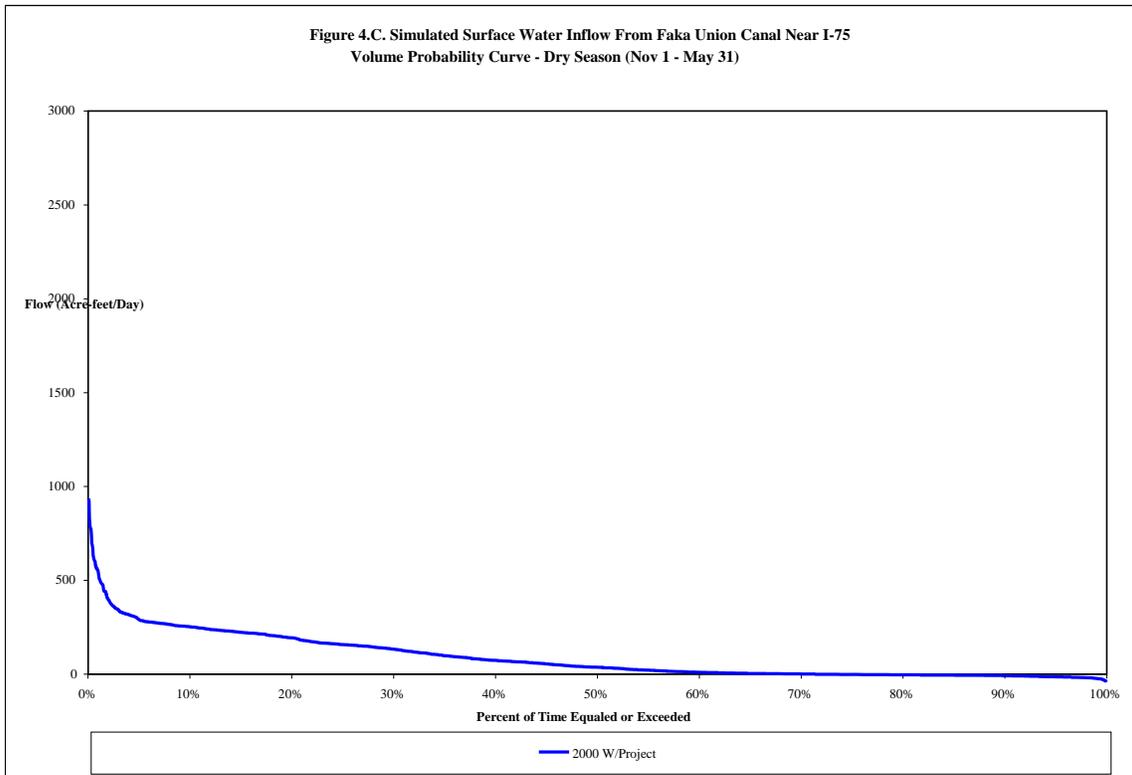
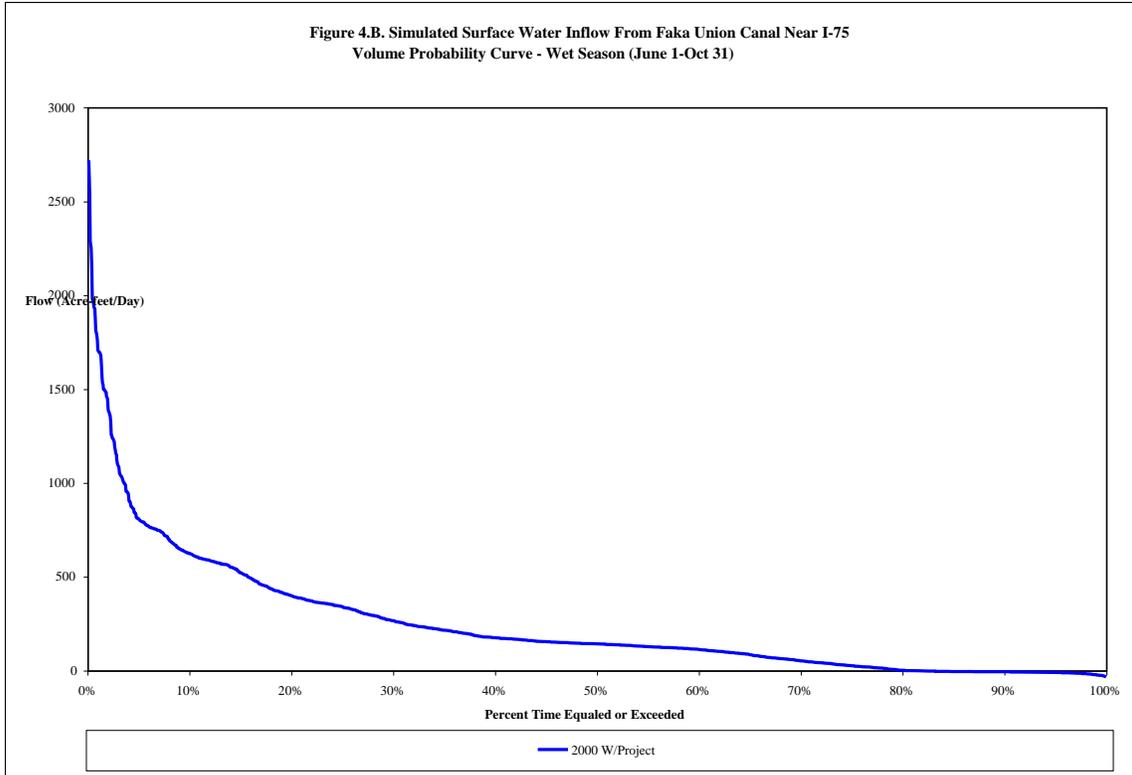
Figures

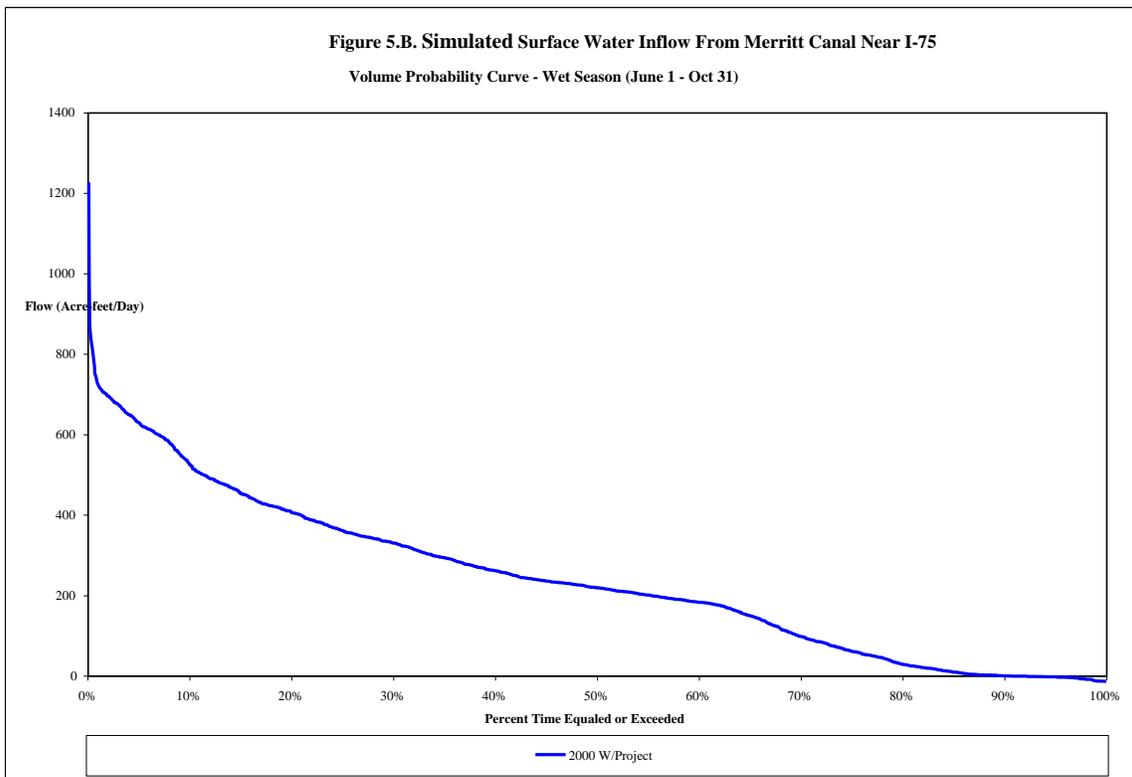
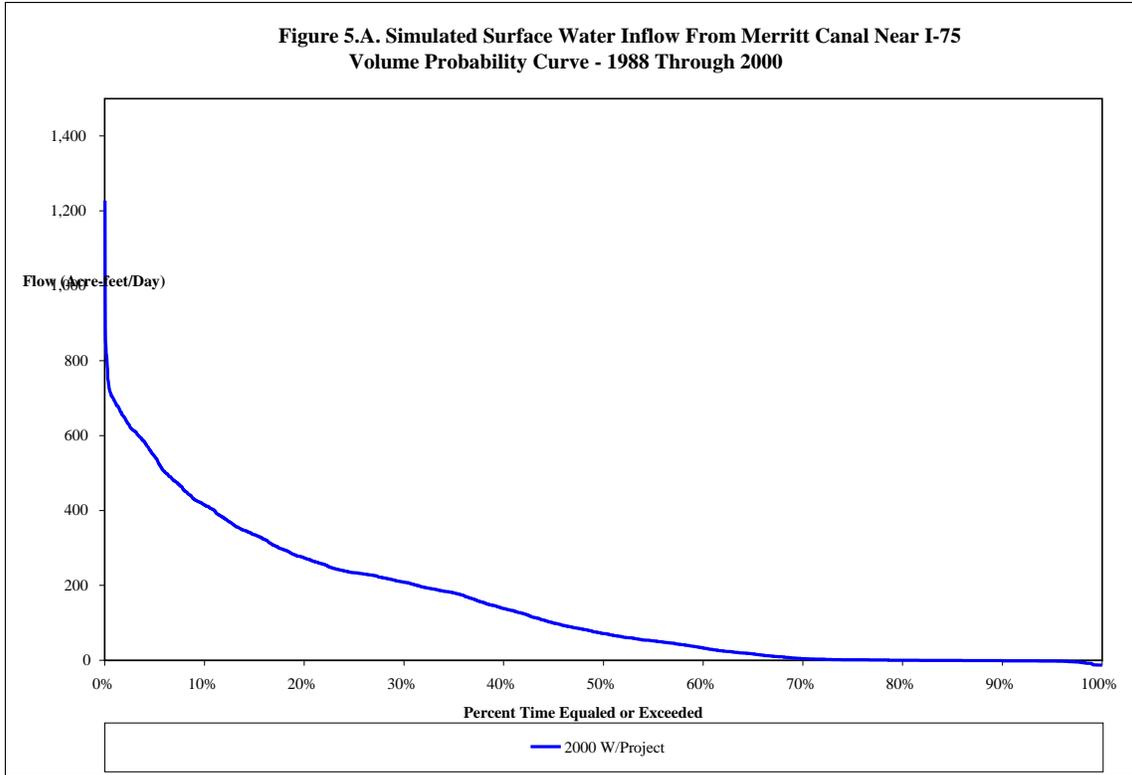












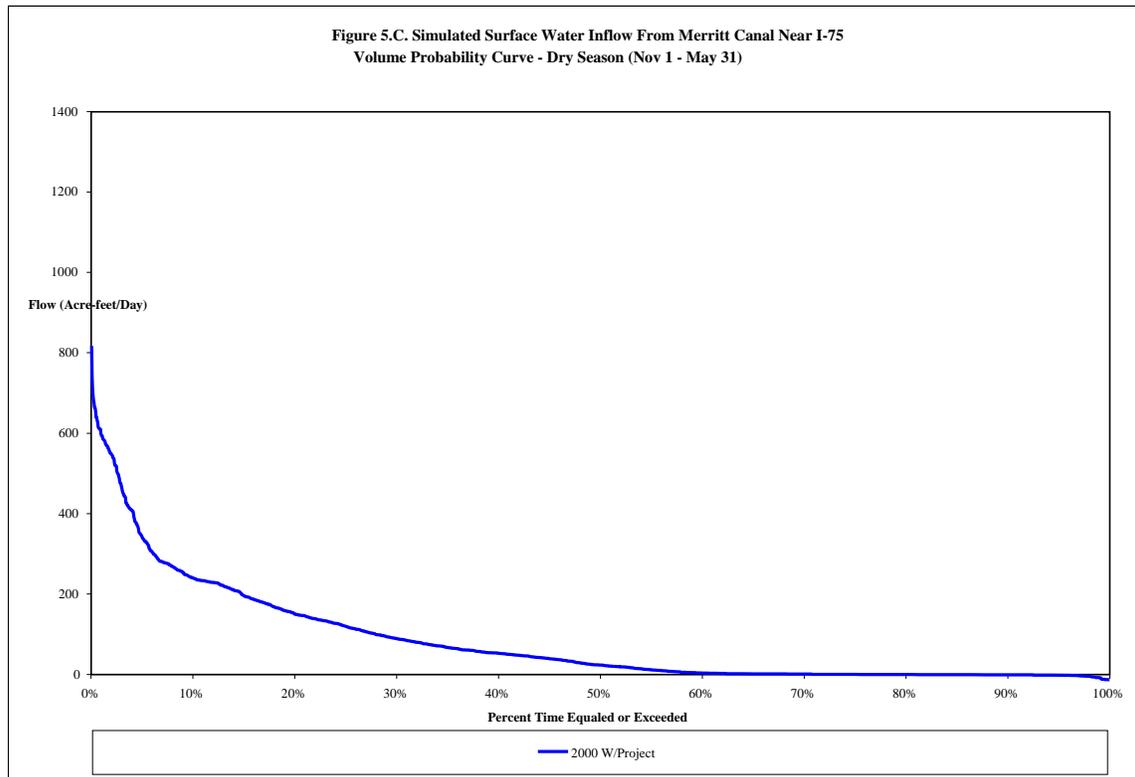


Figure 6.A. Simulated Surface Water Deliveries to Faka Union Bay From Faka Union FU#1 Near US 41 Volume Probability Curve – 1988 Through 2000

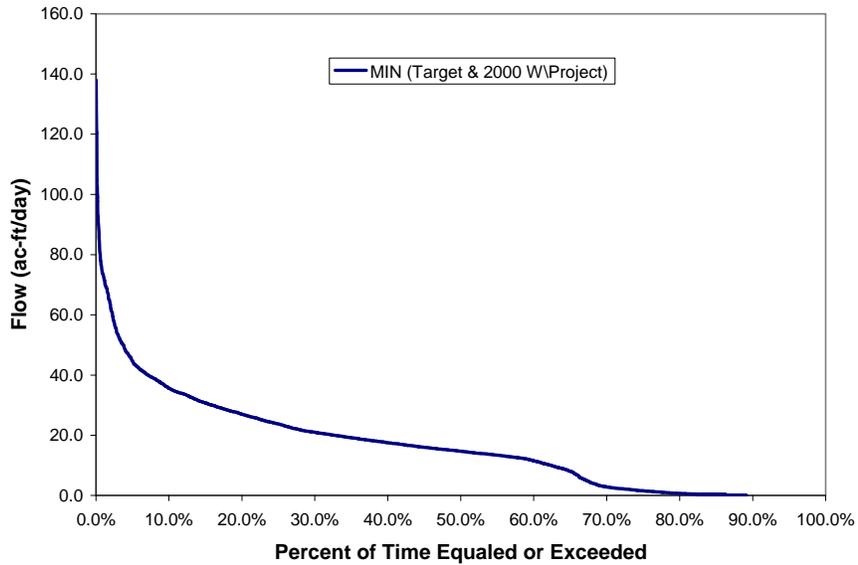


Figure 6.B. Simulated Surface Water Deliveries to Faka Union Bay from Faka Union FU#1 Near US 41 Wet Season Volume Probability Curve – (June 1 - Oct 31)

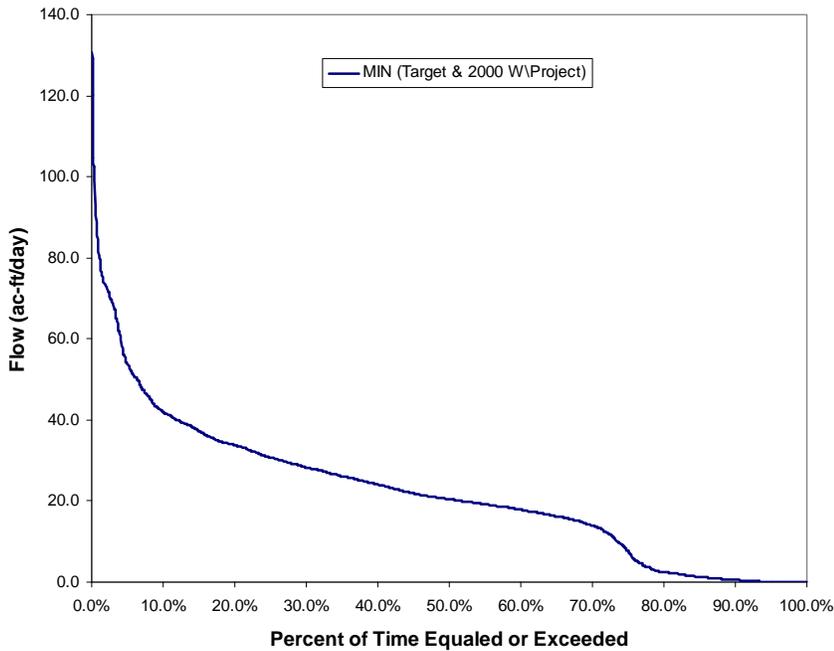
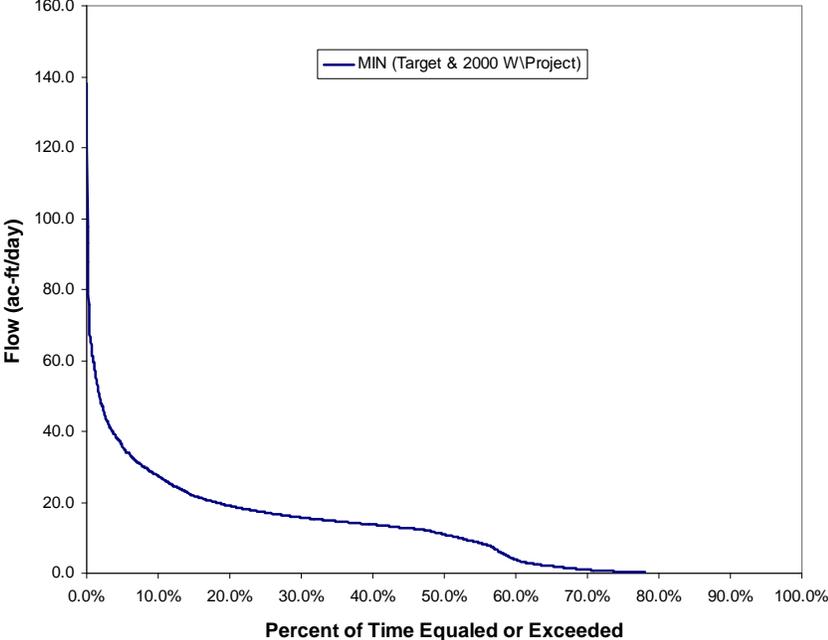
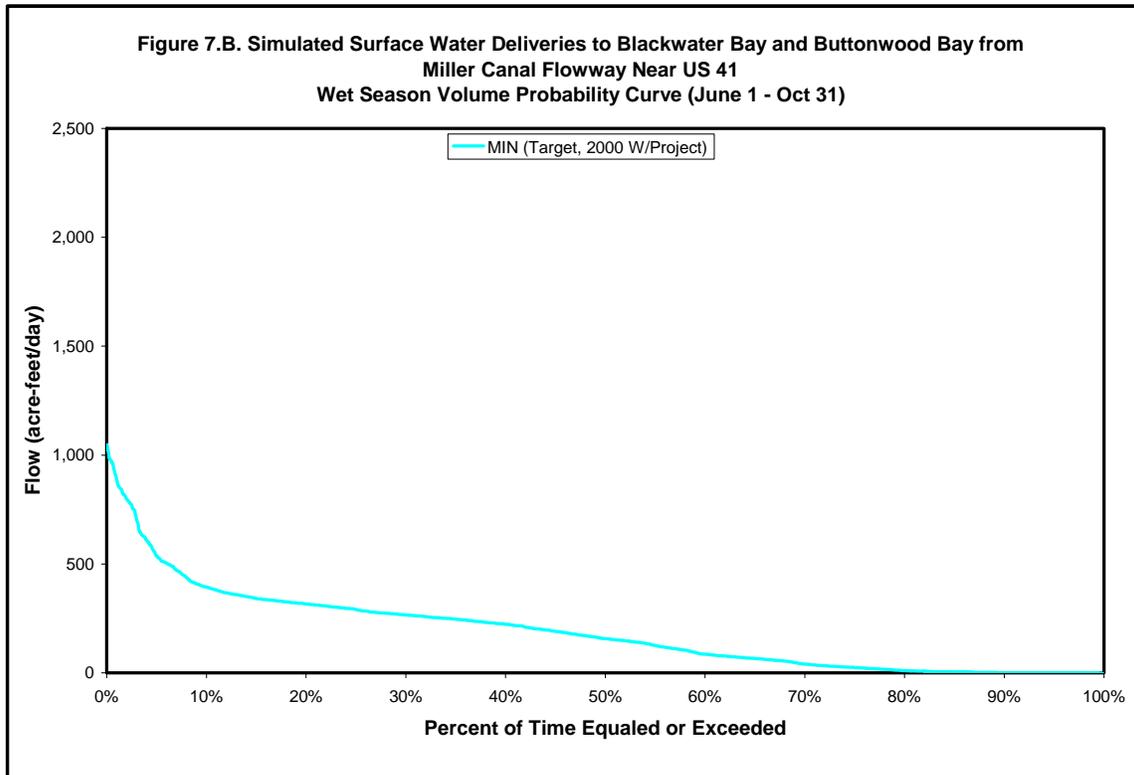
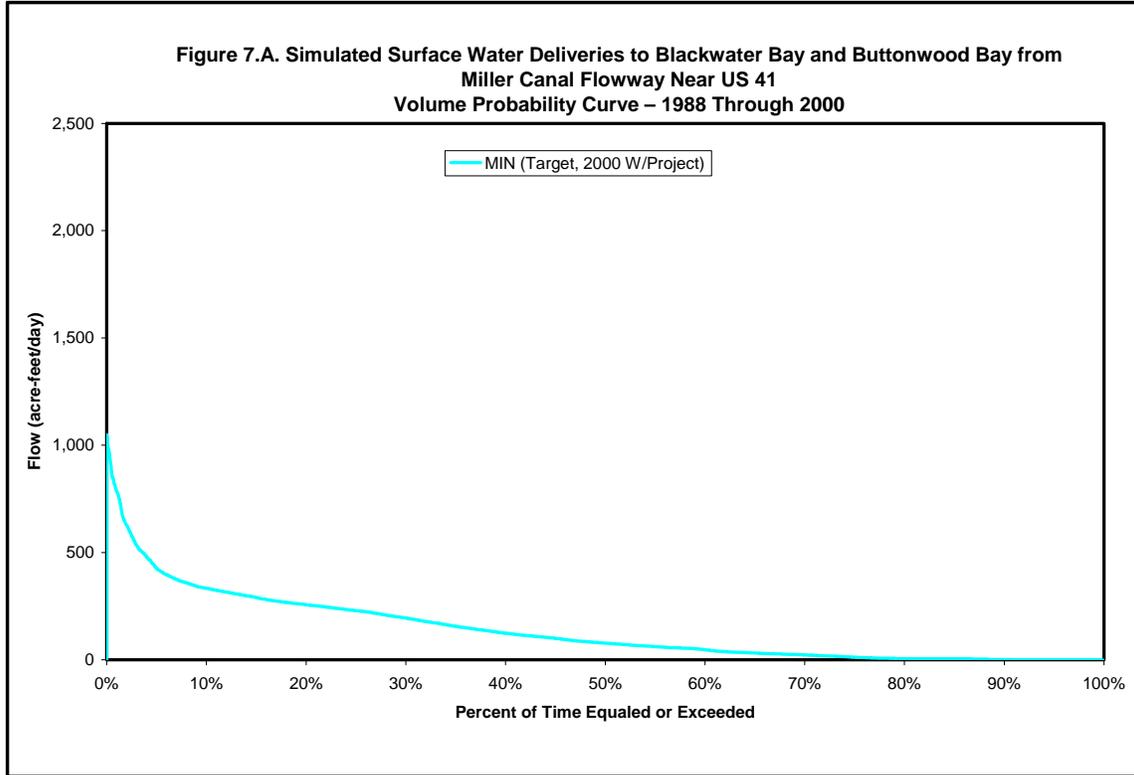
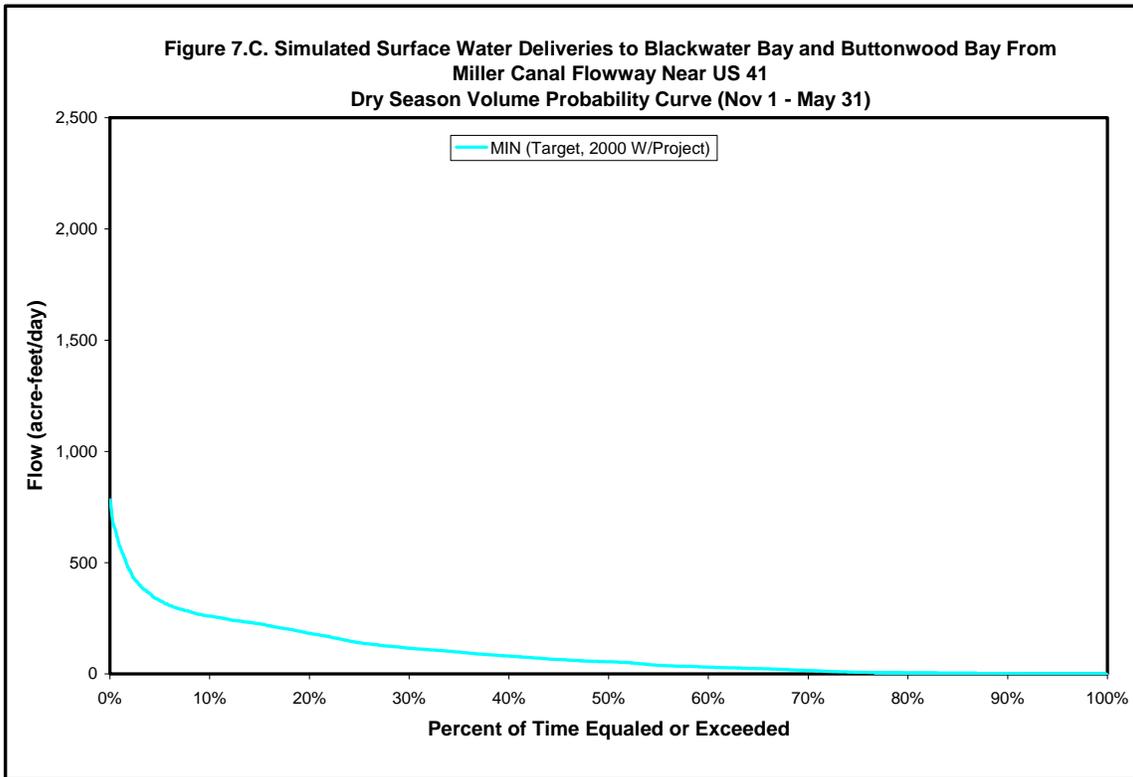


Figure 6.C. Simulated Surface Water Deliveries to Faka Union Bay from Faka Union FU#1 Near US 41 Dry Season Volume Probability Curve (Nov 1- May 31)







**Figure 8. A. Simulated Surface Water Deliveries to Pumpkin Bay From Faka Union Flowway Near US 41
Volume Probability Curve – 1988 Through 2000**

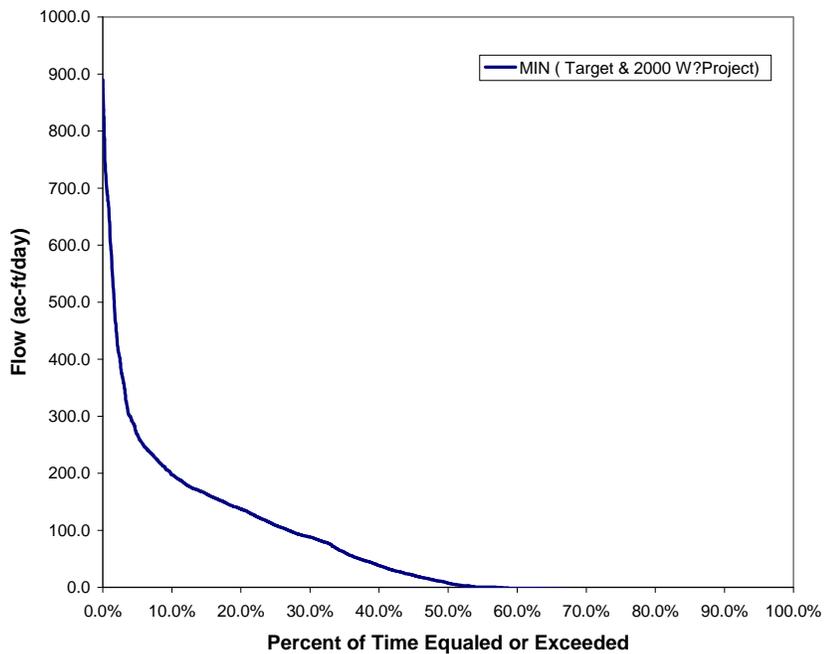


Figure 8.B. Simulated Surface Water Deliveries to Pumpkin Bay from Faka Union Flowway Near US 41 Wet Season Volume Probability Curve (June 1 - Oct 31)

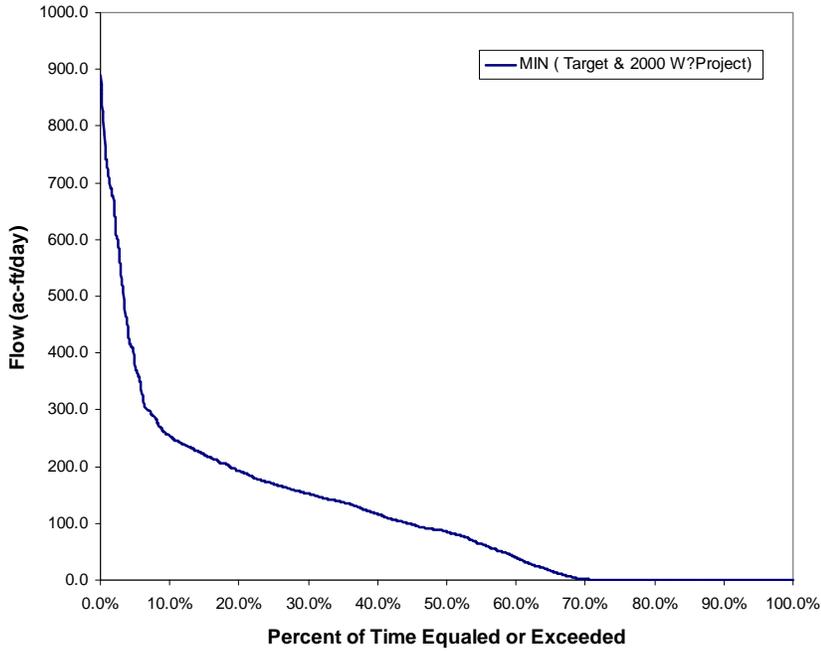


Figure 8.C. Simulated Surface Water Deliveries to Pumpkin Bay from Faka Union Flowway Near US 41 Dry Season Volume Probability Curve (Nov 1 - May 31)

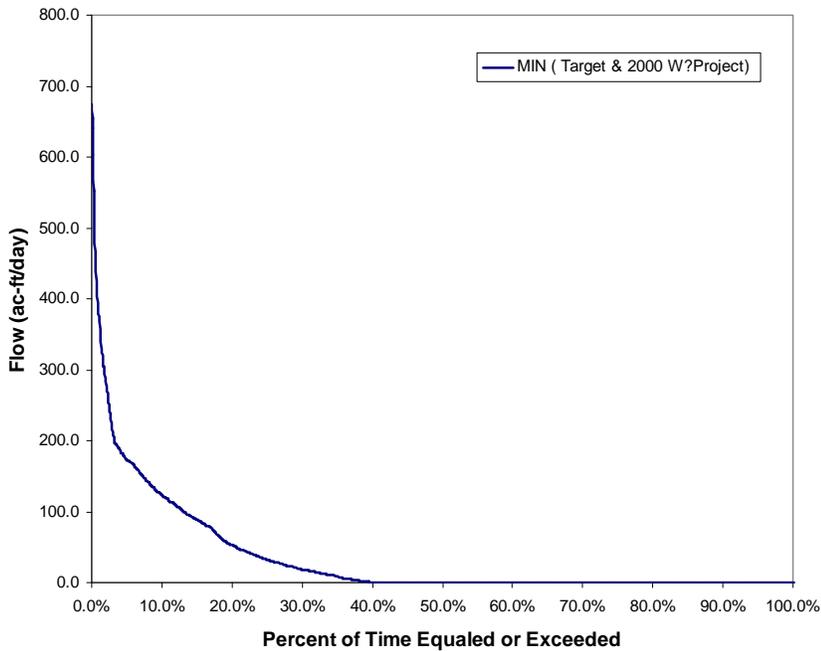


Figure 9.A. Simulated Surface Water Deliveries to Faka Union Bay From Merritt Canal Flowway Near US41 Volume Probability Curve – 1988 Through 2000

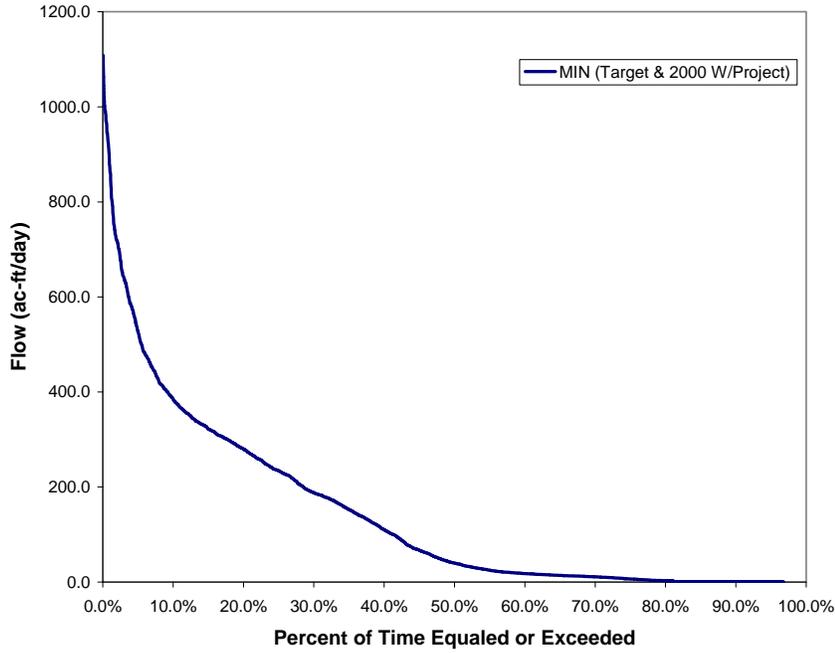
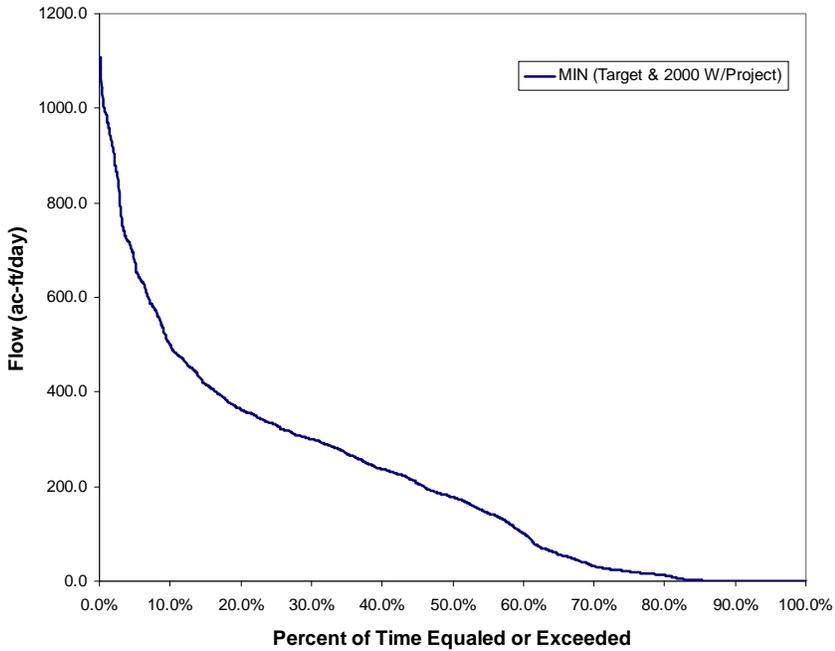
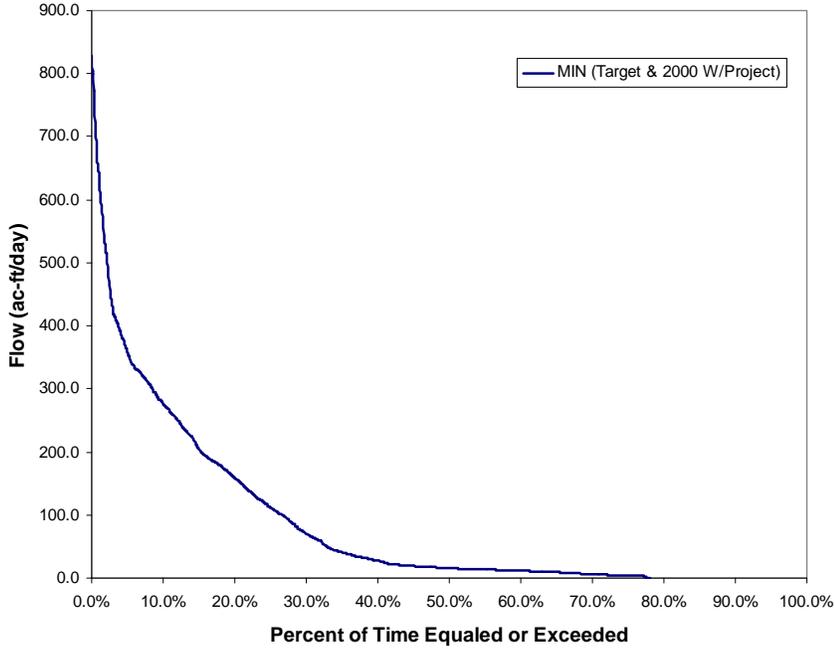


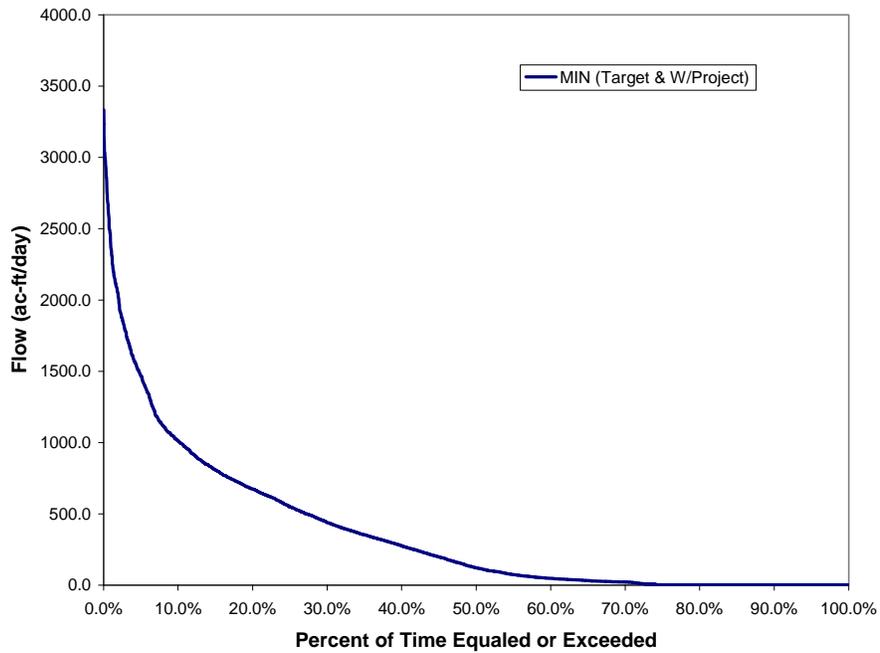
Figure 9.B. Simulated Surface Water Deliveries to Faka Union Bay from Merritt Canal Flowway Near US41 Wet Season Volume Probability Curve (June 1- Oct 31)



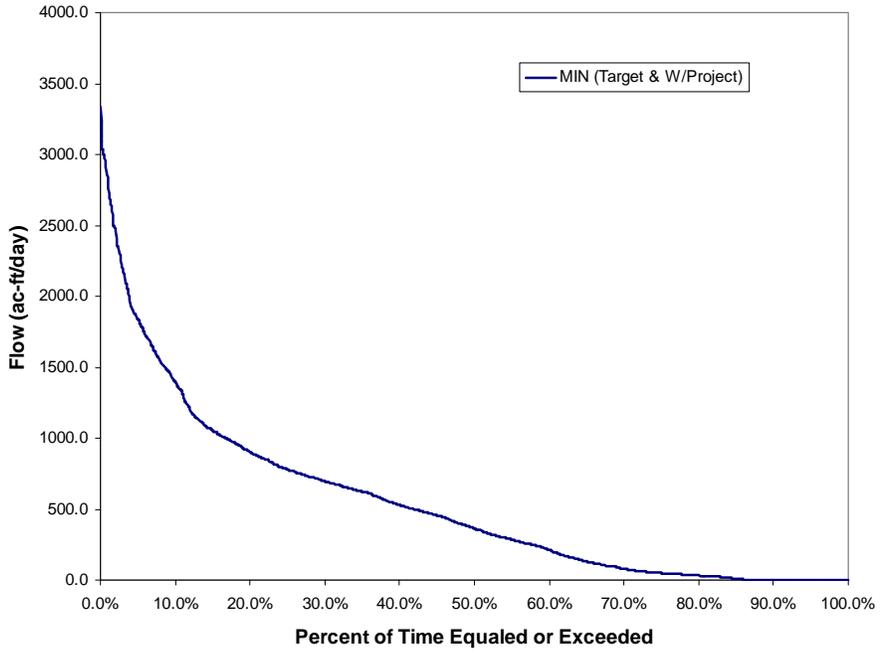
**Figure 9.C. Simulated Surface Water Deliveries to Faka Union Bay from Merritt Canal Flowway Near US41
Dry Season Volume Probability Curve (Nov 1 - May 31)**



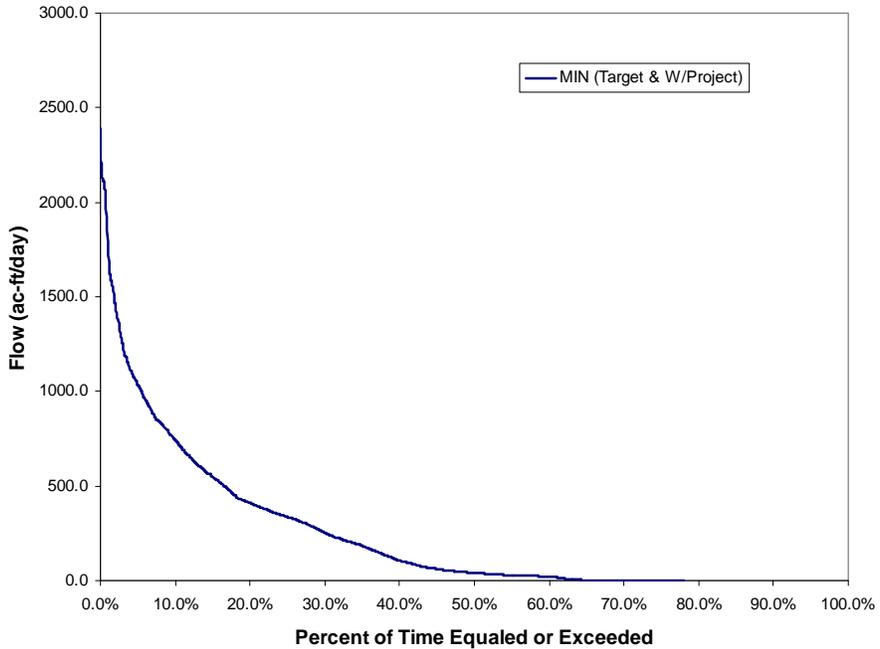
**Figure 10.A. Simulated Surface Water Deliveries to Fakahatchee Bay From Fakahatchee Strand
Volume Probability Curve – 1988 Through 2000**



**Figure 10. B. Simulated Surface Water Deliveries to Fakahatchee Bay from Fakahatchee Strand
Wet Season Volume Probability Curve (June 1- Oct 31)**



**Figure 10.C. Simulated Surface Water Deliveries to Fakahatchee Bay from Fakahatchee Strand
Dry Season Volume Probability Curve (Nov 1 - May 31)**



Appendix 3: Upper East Coast Reservation Water Bodies

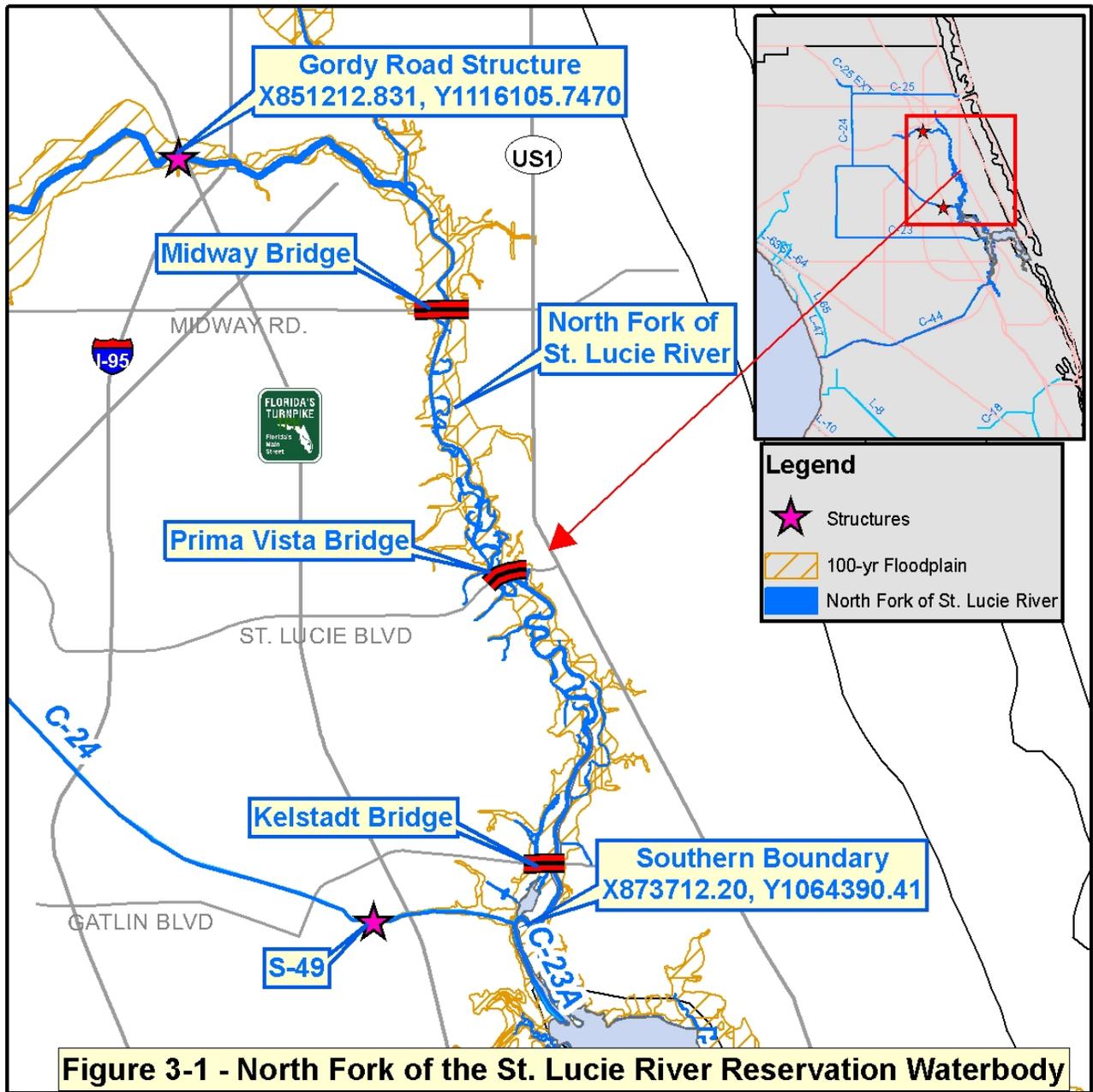


Figure 3-2: Water Reserved for the North Fork of the St Lucie River

