groundwater for use on its overlying property and the drawdowns associated the groundwater withdrawals cross county boundaries; or (2) water is withdrawn from an underground water storage unit where it has been stored pursuant to an aquifer storage and recovery project and may, in its stored state, cross county boundaries.

B. Transport and use of water by self-suppliers of water for which the proposed water source and areas of use or application are located on contiguous private properties are exempt from review under the provisions in Section 373.223(3), F.S., including a project whose boundary straddles county borders and water from one part of the project serves another part of the same project in the neighboring county.

C. Transport and use of water across county boundaries by water supply authorities meeting the requirements of Section 373.1962(9), F.S., are exempt from Section 373.223(3), F.S.; and

D. The transport and direct or indirect use of water within the areas encompassed by the Central and Southern Florida Flood Control Project is exempt pursuant to Sections 373.016(4)(a) and 373.223(3), F.S.

3.0 WATER RESOURCE EVALUATIONS

Section 373.223, F.S., provides a three-pronged test for evaluating each proposed water use: (1) the use must be reasonable-beneficial, (2) must not interfere with any existing legal use of water, and (3) must be consistent with the public interest. Reasonable assurances that the proposed water use from both an individual and cumulative basis meets this three-pronged test are provided, in part, by the Applicant's compliance with the Conditions for Issuance, set forth in Rule 40E-2.301.

This section provides some technical guidelines for determining whether a water use meets the Conditions for Issuance set forth in Rule 40E-2.301. If the criteria described in this section are not met, applicants may consider reduction of withdrawal quantities, a pumpage rotation schedule, mitigation, change in withdrawal source or other means to bring the proposed use into compliance with the technical criteria.

3.1 Reasonable Demand

The proposed withdrawal of water must be supported by information specified in Section 2.0 of this manual, demonstrating that the withdrawal quantities are necessary to supply a certain reasonable need or demand. Only that portion of the requested demand that is supported by adequate documentation will be recommended for issuance through the time period specified by the permit duration.

3.2 Sources of Water

District permits are required for all non-exempt existing and proposed uses of fresh and saline sources. Sources are described as surface water or ground water which can be further identified with the name of the water body and/or aquifer. Applicants using seawater or reclaimed water to meet their total water needs are not required to obtain water use permits. However, if these sources are utilized, in part, to meet the Applicant's water demand, the Applicant should identify the quantities obtained from these sources that are used to meet the demand. If a source is not reliable throughout the year, the Applicant may request withdrawal quantities from secondary and standby sources of supply, which may be used when the primary supply is limited. The permit will identify the secondary and backup sources and the conditions and time periods for which they are likely to be required.

Consideration must be given to the availability of the lowest quality water, which is acceptable for the intended use. If a water source of lower quality is available and is feasible for all or a portion of an Applicant's use, this lower quality water must be used. Such lower quality water may be in the form of reclaimed water, recycled irrigation return flow, collected stormwater, saline water, or other sources.

3.2.1 Restricted Allocation Areas

Due to concerns regarding water availability, the following geographic areas are restricted with regard to the utilization of specific water supply sources. These areas and sources include the following:

A. Lake Istokpoga/Indian Prairie Canal System - No additional surface water will be allocated from District controlled surface water bodies over and above existing allocations. No increase in surface water pump capacity will be recommended.

B. C-23, C-24 and C-25 Canal System - No additional surface water will be allocated from District canals C-23, C-24 and C-25, or any connected canal systems that derive water supply from these District canals, over and above existing allocations. No increase in surface water pump capacity will be recommended.

C. L-1, L-2 and L-3 Canal System - No additional surface water will be allocated from District canals L-1, L-2 and L-3 over and above existing allocations. No increase in surface water pump capacity will be recommended.

D. Pumps on Floridan Wells - No pump shall be placed on a flowing Floridan well in Martin or St. Lucie County, except under the following guidelines:

    1. If the pump was in place and operational prior to March 2, 1974, and is still in place or a replacement pump with a similar capacity is in place, or

2. The proposed pump is installed for the purpose of increasing pressure in attached piping (e.g., drip or micro-jet irrigation systems) and not for the purpose of increasing flow over and above that flow which naturally emanates from the well. The determination of the appropriate pump capacity must occur after well construction and measurement of the actual natural flow rate. Prior to any pump installation, the Permittee shall provide measurements of flow from each well using calibrated flow equipment. The method of accounting, calibration data, corrections for well losses, proposed pump information, and the basis for the requested flow rate shall be submitted to District Staff for review and approval, or

3. The Applicant conducts and provides the results of a study, approved by District staff, which shows that pump installation and subsequent withdrawals will not interfere with any presently existing legal use, as defined in Section 3.7, or

4. The proposed pump is installed to temporarily assist in producing the permitted allocation associated with freeze protection pursuant to Section 2.3.4, or

5. The proposed pump is installed to temporarily assist in meeting allowable withdrawals for the duration of a water shortage declared pursuant to Chapter 40E-21, F.A.C.

E. In addition to all other applicable consumptive use statutory and rule provisions, the following restrictions shall apply when allocating water by permit for water use withdrawals within the Northern Palm Beach County Service Area and Lower East Coast Service Areas 1, 2 or 3.

This section is a component of recovery strategies for minimum flows and levels for the Everglades and the Northwest Fork of the Loxahatchee River, as set forth in Chapter 40E-8, F.A.C., and assists in implementing the objective of the District to ensure that water necessary for Everglades restoration and restoration of the Loxahatchee River Watershed is not allocated for consumptive use upon permit renewal or modification under this rule.

(1) The additional restrictions in this section shall only apply to applications for new or modified permits or for permit renewals.

(2) Except as provided in this section, an applicant must demonstrate, pursuant to the impact evaluation provisions in Section 1.7.5.2., the requested allocation will not cause a net increase in the volume or cause a change in timing on a monthly basis of surface and ground water

withdrawn from the Lower East Coast Everglades Waterbodies or the North Palm Beach County/Loxahatchee River Watershed Waterbodies (which are hereinafter referred to as the "Waterbodies") over that resulting from the base condition water use.

The evaluation of water withdrawn from Waterbodies under this section shall address the impacts of the proposed use on surface and ground water from: (a) integrated conveyance systems that are hydraulically connected to the subject Waterbodies and are tributary to or receive water from such Waterbodies; and (b) the Waterbodies. Integrated conveyance systems that are hydraulically connected to the subject Waterbodies include primary canals used for water supply including, but not limited to, the Central and Southern Florida Project Canals, and secondary and tertiary canals that derive water from primary canals.

(3) The "base condition water use" shall be as provided below, but in no case shall exceed the withdrawal permitted to the applicant as of April 1, 2006:

(a) for the public water supply use class, the maximum quantity of water withdrawn by the applicant from the permitted source during any consecutive twelve month period during the five years preceding April 1, 2006. If a permit allocation existing as of April 1, 2006 contains an allocation based on a conversion of a water treatment system, the base condition water use shall be increased to account for the additional volume used as if the modified treatment system was operational as of April 1, 2006;

(b) for the irrigation use class, the quantity of water calculated using Section 2.3.2 to meet demands for the following: 1) the number of acres actively irrigated by the applicant over the duration of the irrigation permit existing as of April 1, 2006; or 2) if the irrigation project, or a portion thereof, has not yet been constructed pursuant to a required surface water management construction permit or environmental resource permit as of April 1, 2006, the number of acres authorized to be irrigated by such project when constructed, consistent with a water use permit existing as of April 1, 2006;

(c) for the diversion and impoundment use class, the demands of the applicant calculated pursuant to Section 2.7.2 for the physical conditions of the diversion and impoundment system as of April 1, 2006; or

(d) for other use classes, the quantity of water withdrawn by the applicant during the twelve months preceding April 1, 2006.

In determining the base condition water use, pursuant to subsections (a) through (d) above, the District shall consider and allow adjustments if the applicant demonstrates that such use is not representative of normal operations due to

unanticipated conditions affecting the actual quantity of water withdrawn, such as extreme climatic conditions or equipment failure. Only uses conducted consistent with the existing consumptive use permit limiting conditions shall be considered in identifying the base condition water use. The base condition water use shall not exceed that permitted as of April 1, 2006.

The base condition water use shall include water made available through implementation of offsets, alternative water supplies, or terminated or reduced base condition water uses, specifically required by permit limiting condition to prevent increased water from being withdrawn from the subject Waterbodies. Under these circumstances, the applicant shall demonstrate that such actions were implemented and function as required by the permit.

(4) Applicants shall conduct a preliminary evaluation to determine whether the proposed use has the potential for increasing the withdrawal of water from the Waterbodies over the applicant's base condition water use. Such preliminary evaluations may include a basic analytic impact assessment described in Section 1.7.5.2.A. or other acceptable evaluation pursuant to Section 1.7.5.

If based on a preliminary evaluation the proposed use has the potential for increasing the withdrawal of water from the Waterbodies, the following two evaluations will be compared to identify any changes in location, timing and volume of the withdrawals from the Waterbodies:

(a) A quantification of the withdrawal of surface and ground water from the Waterbodies under the base condition water use; and

(b) A quantification of the withdrawal of surface and ground water from the Waterbodies under the requested allocation.

In conducting this evaluation, the applicant shall consider the timing of the withdrawals as they affect the Waterbodies, i.e., the public water supply use class requires water throughout the year based on seasonal demand trends of the service area, versus the agriculture use class which uses water based on growing cycles of the particular crop.

When evaluating the affects of the proposed use on the Waterbodies, the applicant shall evaluate the resource efficiency of the use, i.e., the public water supply class demands are based on the demands of the service area and the type of treatment, and generally do not provide return flow to the source at the location of the withdrawal; whereas, the agricultural use class demands are based on the crop type, irrigation method and soil conditions, and typically provide some component of recharge at or near the point of withdrawal. The location component is evaluated based on the distance of the withdrawal from and the specific individual area of the subject

Waterbodies as depicted in Figures 3-1 and 3-2, e.g., Water Conservation Area 1, 2A, or 2B, or the Northwest Fork of the Loxahatchee River or Loxahatchee Slough.

(5) If the comparison of the evaluations identified in Paragraph (4) identifies an increase in the volume or change in timing of water requested to be withdrawn from the Waterbodies, the applicant shall do one or more of the following:

(a) Certified project water. Identify that additional water from the Waterbodies has been made available through implementation of a project for water resource development, as defined in Section 373.019(22), Florida Statutes, and such water has been certified as available by the Governing Board, as defined in Section 1.8.

(b) Offsets. Propose, identify a schedule for implementation, and construct and operate adequate offsets to eliminate the projected increase in volume or change in timing of withdrawals from the Waterbodies over the base condition water use. An offset will be approved if it prevents an increase in volume or change in timing of surface and groundwater withdrawn from the Waterbodies over the base condition water use. Offsets include the use of recharge systems and seepage barriers that meet the above requirement;

(c) Alternative water supply. Propose, identify a schedule for implementation, and construct and operate alternative water supplies, as defined in Section 373.019(1), Florida Statutes. An alternative water supply will be approved under this rule if it is adequate to meet the reasonable increased demands without causing an increased volume or change in timing of the withdrawal from the Waterbodies over the base condition water use;

(d) Terminated or reduced base condition water use. Identify terminated or reduced base condition water uses as stated below. The request will be approved if the applicant demonstrates that the requested allocation does not cause an increase in volume or change in timing of withdrawals from the Waterbodies over the applicant's base condition water use due to the reduction or elimination of other base condition water uses that existed on April 1, 2006. The applicant must demonstrate that water is available through providing documentation of the modification or termination of the historic consumptive use permit prior to issuance of the proposed permit under this rule; or,

(e) Available wet season water. Identify water is available during the wet season as set forth below. The wet season water will be approved if the applicant demonstrates that water is available under the conditions described below during the wet season, provided the applicant demonstrates that such water is not required to achieve the restoration

benefits to the Waterbodies pursuant to the Comprehensive Everglades Restoration Plan, North Palm Beach County Comprehensive Water Management Plan, and the Acceler8 program. Water available under these conditions shall be limited to the wet season discharges that are projected to persist following implementation of the entire Comprehensive Everglades Restoration Plan, North Palm Beach County Comprehensive Water Management Plan, and the Acceler8 program.

1. Available surface water discharges during the wet season shall be identified based on best available information at the time of permit application evaluation used to quantify surface water flows from or to the restored Waterbodies, as reflected in the Comprehensive Everglades Restoration Plan, North Palm Beach County Comprehensive Water Management Plan, and the Acceler8 program, in their entirety;

2. Available wet season surface water discharges will be identified based on 1 in 10 drought conditions during May 1st through November 1st, as determined by annual rainfall statistics measured from gauges that are proximal to the applicant's point of withdrawal defined in Part B Water Use Management System Design and Evaluation Aids, Part IV Supplemental Crop Requirement and Withdrawal Calculation; and,

3. Wet season surface water requested by the applicant must be derived within the same hydrologic area where the available surface water is identified.

The District will assist the permit applicant in identifying the best available information necessary to make the determination of wet season water availability. Offsets, alternative water sources and terminated or reduced base condition water uses implemented after April 1, 2006 shall be considered in addressing requested increases in withdrawals from Waterbodies under this section. Notwithstanding, as stated in Paragraph (3), water made available from the permitted source through offsets, alternative water supplies and terminated or reduced base condition water uses implemented consistent with permit limiting conditions to prevent increased water from being withdrawn from the subject Waterbodies, shall be considered in the base condition water use.

(6) Consistent with subsection (5), the permit applicant may obtain an allocation for additional water from the Waterbodies over the applicant's base condition water use, as identified below:

(a) Certified project water. Water certified by the Governing Board as available for consumptive use through operation of a water resource development project, as provided in Section (5)(a);

(b) Temporary allocation. Water temporarily required to meet the applicant's reasonable demands while implementing an alternative water supply pursuant to subsection (5)(c) or while implementing an offset identified pursuant to subsection (5)(b). The permit will be conditioned with dates and milestones for development of the alternative water supply or offset. A temporary allocation shall be reduced to be consistent with this section when the alternative source is projected to be available, consistent with permit limiting conditions. The temporary allocation shall be adjusted, as necessary, to reflect the offset on the Waterbodies when the offset is projected to be available, consistent with the permit limiting conditions.

The limiting conditions governing the quantity and time period for the temporary allocation shall be based on expected due diligence of the permit applicant, as determined by applying the factors in subparagraphs 1. through 3., below, to implement the alternative water supply or offset in an expeditious manner, not to exceed five years unless specifically approved by the Governing Board. The time period shall be determined considering the following factors:

1. The projected time period for design, receipt of necessary authorizations, and construction of the alternative supply or offset;

2. The timing of demands to be met from the alternative supply or offset;

3. Other factors that indicate the reasonable period required to develop the alternative supply or offset.

(c) Water made available through implementation of offsets or the termination or reduction of base condition water use withdrawals. Water made available through implementation of offsets pursuant to subsection (5)(b) or water made available through the termination or reduction of other users' base condition water use withdrawals pursuant to subsection (5)(d), consistent with permit limiting conditions; or,

(d) Available wet season water. Water available during the wet season, provided the applicant demonstrates that such water is not required to achieve the restoration benefits to the Waterbodies pursuant to the Comprehensive Everglades Restoration Plan, North Palm Beach County Comprehensive Water Management Plan, and the Acceler8 program, pursuant to subsection 5(e). Pursuant to permit limiting conditions, additional surface water withdrawals will be permitted only when flood control regulatory releases are being made, and not when water supply deliveries are being made, from the Waterbodies.

(7) Permit applicants must meet the requirements of any established minimum flow and level and water reservation, if applicable.

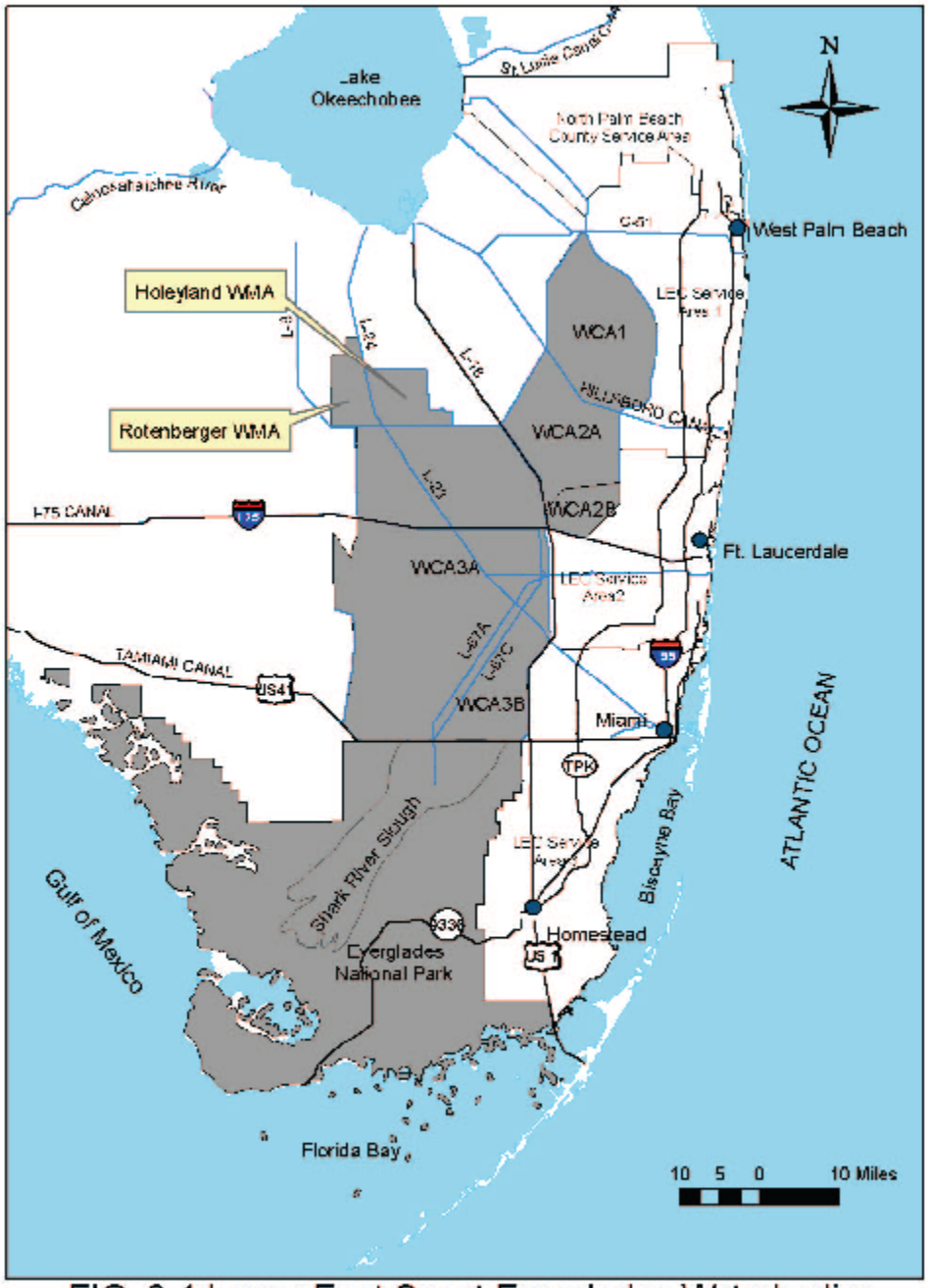


FIG. 3-1:Lower East Coast Everglades Waterbodies and Major Integrated Conveyance Canals

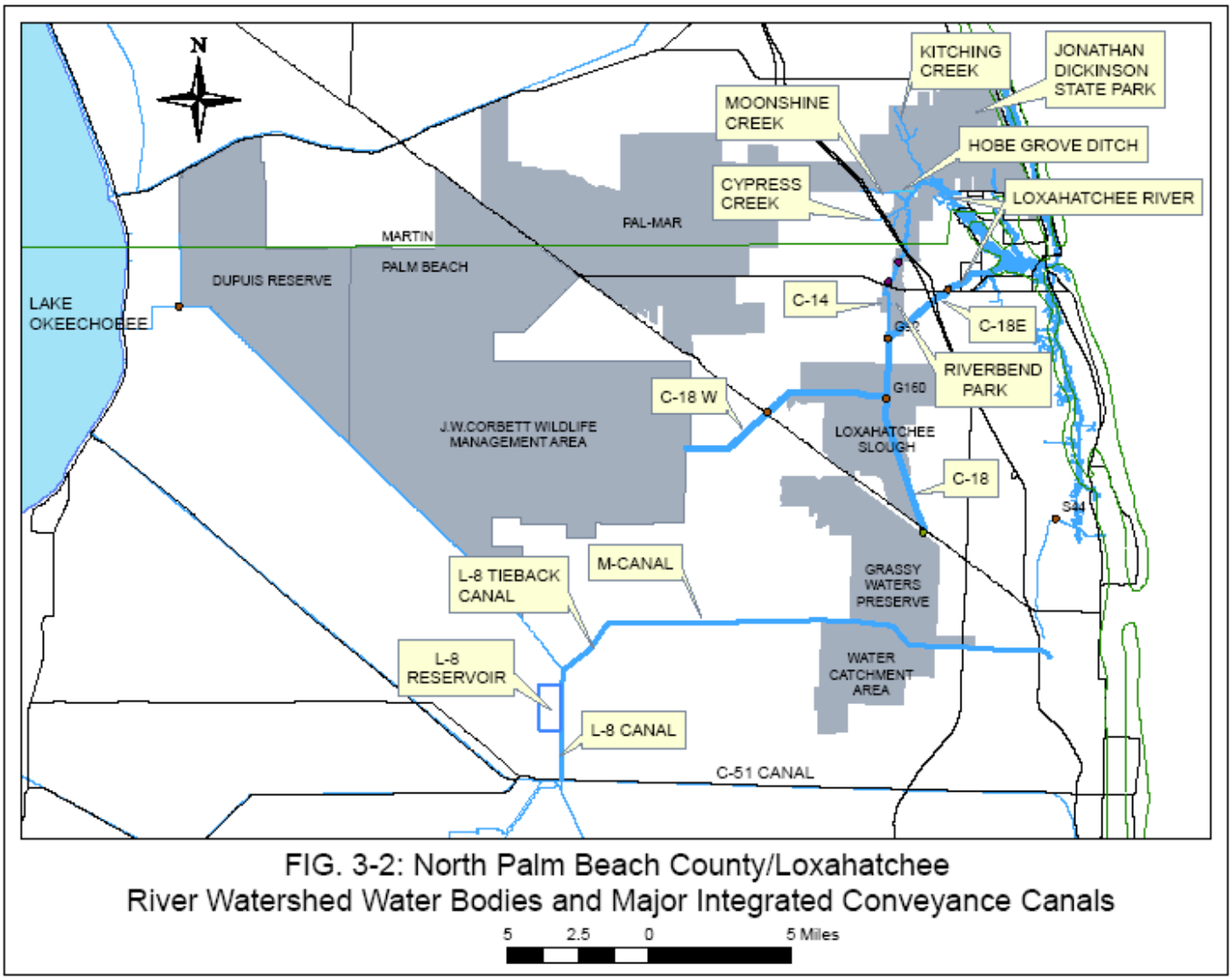


FIG. 3-2: North Palm Beach County/Loxahatchee River Watershed Water Bodies and Major Integrated Conveyance Canals

F. Groundwater Allocation in the Central Florida Coordination Area (CFCA) –

1. Overall Intent:

The Central Florida Coordination Area ("CFCA") is located within portions of three water management districts and includes Polk, Orange, Osceola and Seminole Counties, and southern Lake County. Within the South Florida Water Management District, the CFCA is the area delineated in Figure 3-4. As shown in Figure 3-4, the boundary for the portion of the CFCA located within this District is that portion of the south line of Polk County and the South line of Osceola County as said county boundaries are described in Sections 7.53 and 7.49, F.S., respectively, lying within the boundaries of the South Florida Water Management District as described in Subsection 373.069(2)(e), F.S. In this area, stress on the water

resources is escalating because of rapidly increasing withdrawals of groundwater. The public interest requires protection of the water resources from harm. The CFCA rules address the public interest by providing an interim regulatory framework to allow for the allocation of available groundwater in the area, subject to avoidance and mitigation measures to prevent harm, and by requiring the expeditious implementation of supplemental water supply projects (as defined in Section 1.8). This interim regulatory framework is one component of a comprehensive, joint water management district strategy for regional water resource management that also includes regional water supply planning, alternative water supply project funding, and water resource investigations and analysis that will result in a long-term approach for water supply within the CFCA. The interim CFCA rules (as listed in section 3.2.1 (F) 1. (a) below) shall remain in effect only through December 31, 2012, except that if the District initiates rulemaking to provide a long-term regulatory framework to replace the interim rules and a petition challenging all or part of the proposed rules is filed under section 120.56 of the Florida Statutes before that date, the interim rules shall remain effective until 100 days after a final determination of the validity or invalidity of the proposed rules.

(a) Special additional rules apply to public supply utility applicants and similar applicants (see definitions in section 1.8) proposing to withdraw groundwater in the CFCA. These rules are found in section 1.3.2.1, subsections 1.7.2.2 B.4., 1.7.2.2 C.4., 1.7.2.2 D.6., section 1.8 , the Definitions for Brackish Groundwater, Demonstrated 2013 Demand, Due Diligence, Public Supply Utility, Saltwater, Similar Applicant and Supplemental Water Supply, subsection 3.2.1 F, and subsection 5.3 F.

2. Maximum Allocation:

Public supply utility applicants and similar applicants proposing to withdraw groundwater in the CFCA, are restricted to a maximum allocation of groundwater in an amount no greater than its demonstrated 2013 demand, however, an applicant may seek a duration that extends beyond 2013 for that level of allocation. This restriction shall not limit permitted groundwater withdrawals from:

a. Aquifer storage and recovery wells that receive only surface water, stormwater, or reclaimed water, when the volume of water withdrawn does not exceed the volume of water injected; or

b. The surficial aquifer immediately below or adjacent to a stormwater management system or surface water reservoir where any drawdown in the surficial aquifer will be offset by recharge from the system or reservoir; or

c. An injection / recovery wellfield that injects surface water, stormwater, or reclaimed water that is not required under criteria 3.2 or 3.2.3 to be provided to other uses through one or more wells for storage within an aquifer zone and subsequently recovers it through wells from the same aquifer zone and in the same wellfield, when the volume of water withdrawn does not exceed the volume of water injected; or

d. A recharge / recovery project that receives only surface water, stormwater, or reclaimed water that is not provided to users in accordance with District rules, when the volume of water recovered does not exceed the volume of water recharged, and the drawdown due to recovery of water from the Floridan aquifer will be offset in the:

i. surficial aquifer by recharge from the project, and

ii. Floridan aquifer by recharge from the project, except immediately adjacent to the recovery well(s).

3. Water Supply Project Development:

Any applicant seeking a permit duration extending beyond 2013 whose projected water demand after 2013 will exceed its demonstrated 2013 demand must:

a. Identify at least one specific supplemental water supply project that the applicant will develop (either singly or in concert with others) and use to meet all the increase in quantity above its demonstrated 2013 demand, for the duration of the permit; and provide for each identified project, a project development schedule with milestones that when followed will result in the applicant's using supplemental water supply by the end of 2013; or

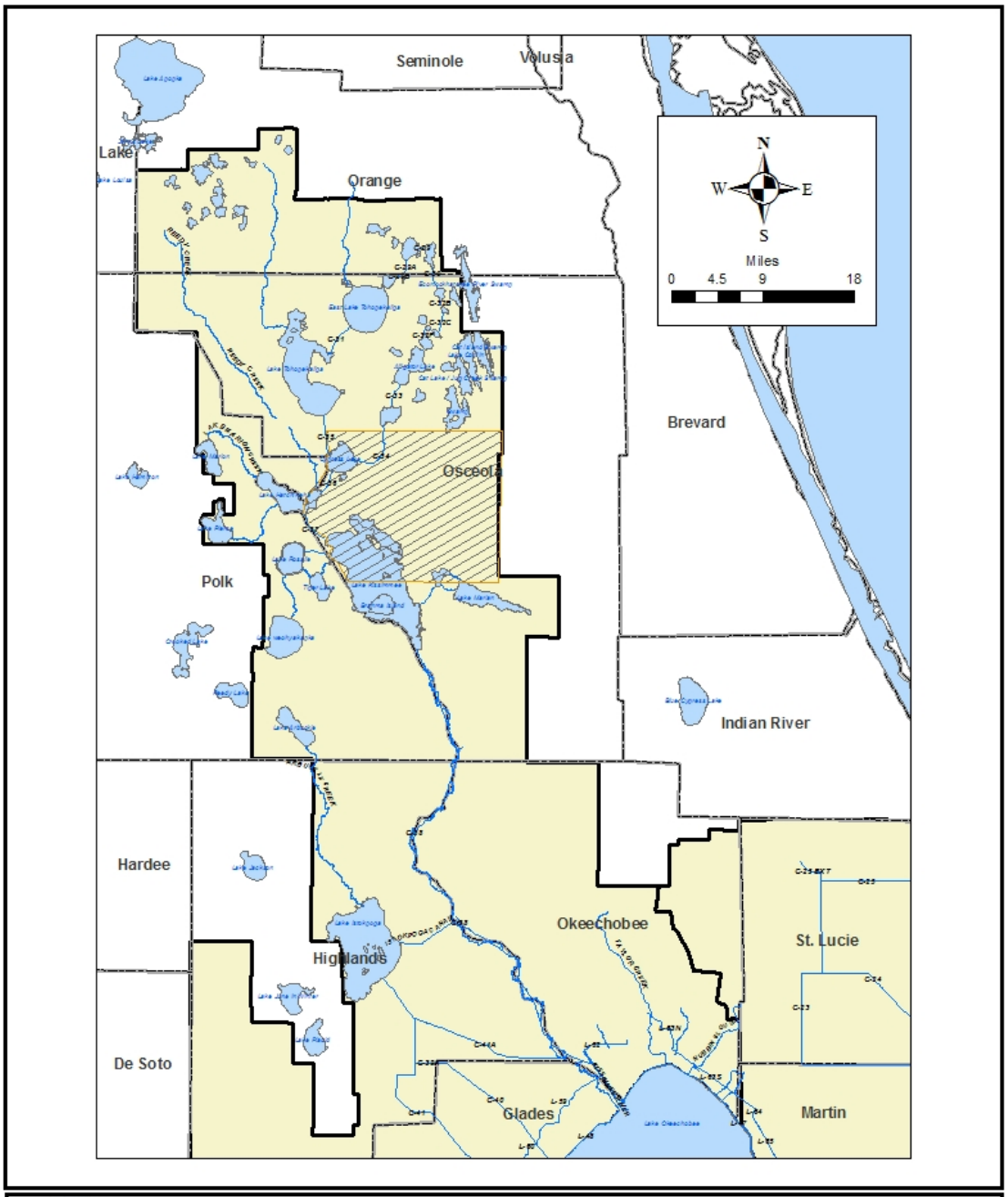
b. Demonstrate that the development (either singly or in concert with others) of a sufficient supplemental water supply to meet all the increase in quantity above its demonstrated 2013 demand is not economically, environmentally, or technologically feasible; and establish that it will maximize the use of supplemental water supply to meet as much of the increase as is economically, environmentally, or technologically feasible and will obtain any remaining portion of the increase by using water from one or more supplemental water supply projects when provided by others at a cost that is economically feasible. The affordability of an increase in water rates for a public supply utility's customers is a consideration in evaluating economic feasibility; however, an increase in water rates shall not, by itself, constitute economic infeasibility.

c. In determining the amount of supplemental water that must be used as set forth in subsection 3.2.1.F.3, the applicant may subtract the portion of its demand that the applicant demonstrates will be satisfied by water conservation under subsection 2.6.1 and the sources identified in subsections 3.2.1.F.2.a., b., c., and d., in effect after 2013.

4. Due Diligence:
A permittee that will lack sufficient supplemental water supplies after 2013 from which to obtain the increase in quantity above its demonstrated 2013 demand shall be allocated a temporary amount of groundwater to meet that increase only if it has exercised due diligence to meet all schedule requirements in the permit for developing and using supplemental water supply and providing that other conditions for issuance in Rule 40E-2.301, F.A.C., and this Basis of Review are met. Any such temporary allocation shall cease when water from the supplemental water supply project becomes available.

5. Change In Use Type:
If an application includes a request to change the use type, or the use within a use type, supplied by groundwater during the term of a permit, such change shall not trigger the requirements to develop and/or use supplemental water supply pursuant to subsections 3.2.1.F. 2. or 3. and the corresponding permit duration provisions of 1.7.2.2 and the CFCA permit condition described in subsection 5.3.F.4., provided:
   (a) the application does not propose an increase in groundwater withdrawal above that permitted for 2013; and
   (b) the groundwater drawdown is no greater than that associated with the use permitted for 2013. However, this subsection 3.2.1.F.5. shall not be construed to affect any condition in the existing permit regarding the development and/or use of supplemental water supply.

6. Lower Quality Sources Analysis:
In reviewing a proposed consumptive use of groundwater in the CFCA under subsection 3.2 regarding utilization of lowest acceptable quality water sources, the District will confine its analysis of lower quality sources to those sources listed in the definition of “supplemental water supply” in subsection 1.8.


Seminole
Volusia
Lake
Orange
Brevard
Osceola
Polk
Indian River
Hardee
Okeechobee
St. Lucie
Highlands
De Soto
Glades
Martin
N
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S
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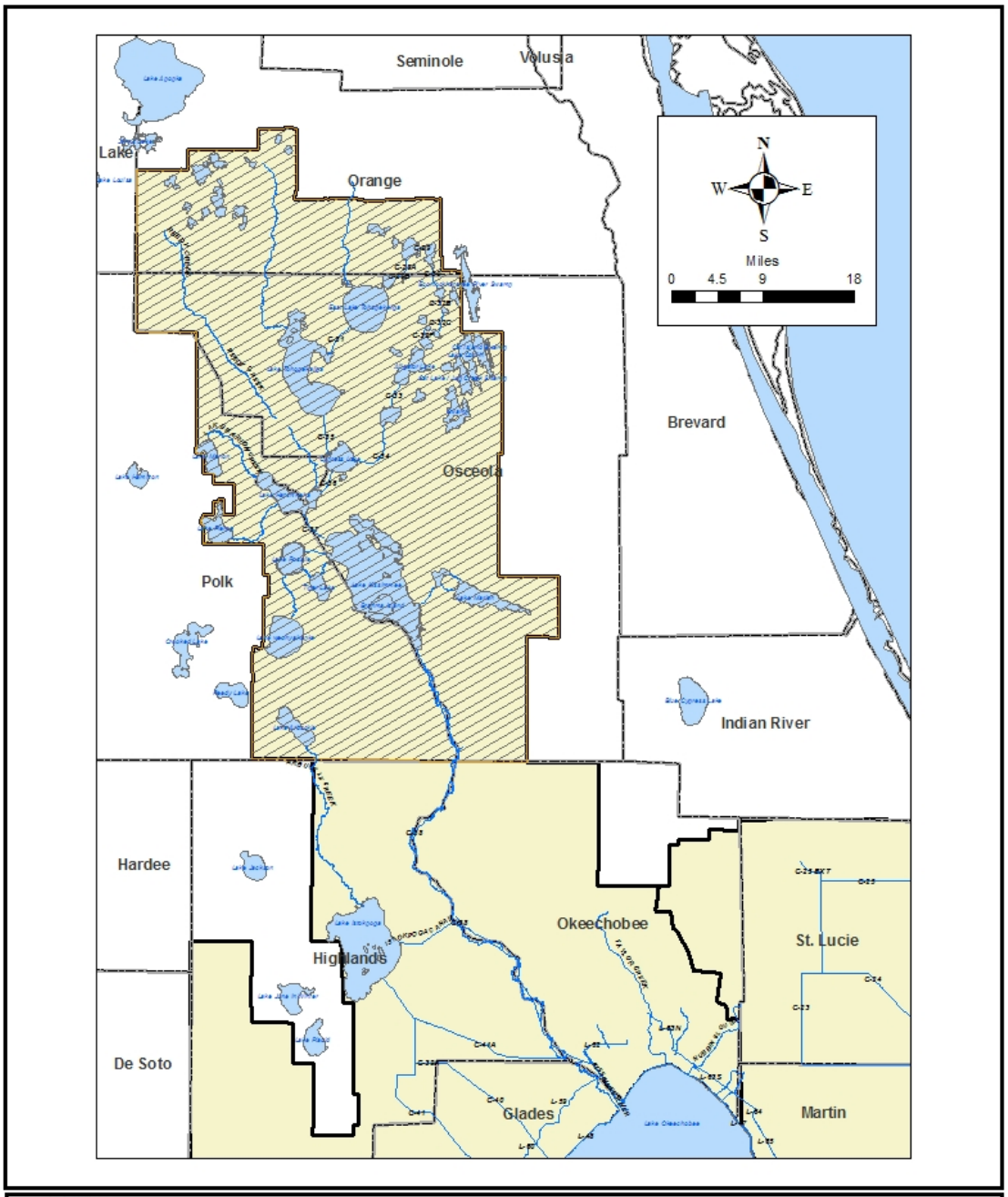
0 4.5 9 18
Area of Special Delineation of Brackish Water
in the Lower Floridan Aquifer
Figure 3-3
Delineation
Canals



Central Florida Coordination Area
Figure 3-4

(G) The following restrictions shall apply when allocating surface water derived from the Lake Okeechobee Waterbody for consumptive use within the Lake Okeechobee Basin as defined in Section 1.7.3. This rule is a component of the recovery strategy for minimum flows and levels for Lake Okeechobee, as set forth in Chapter 40E-8, F.A.C., to address lower lake management levels and storage under the U. S. Army Corps of Engineers' interim Lake Okeechobee Regulation Schedule (LORS), adopted to protect the public health and safety (April 28, 2008). Compliance with this rule along with the other criteria contained in the Basis of Review implements the objectives of the District to protect the public health and safety, to prevent interference among legal users of Lake water, to be consistent with the MFL recovery strategy as defined in Rule 40E-8.421, F.A.C., and to ensure that water necessary for Everglades restoration is not allocated for consumptive use.

(1) The rule applies to applications for new projects, existing unpermitted projects, modifications to existing projects, and permit renewals for existing projects located within the Lake Okeechobee Basin as described in Section 1.7.3, that propose to use surface water from the "Lake Okeechobee Waterbody," defined as:

(a) Lake Okeechobee as identified in Rule 40E-8.021(12); or

(b) Integrated conveyance systems that are hydraulically connected to and receive water from Lake Okeechobee such as the Caloosahatchee River, the St Lucie Canal, or secondary canal systems that receive Lake Okeechobee water for water supply purposes via gravity flow or by pump.

This section does not apply to groundwater withdrawals such as withdrawals from wells, mining, and dewatering, or to projects that request to use a volume of water from the Lake Okeechobee Waterbody at or below the threshold contained in Subsection 40E-20.302(1)(a).

(2) Except as otherwise provided in this section, an applicant must demonstrate the requested allocation will not cause a net increase in the volume of surface water withdrawn from the Lake Okeechobee Waterbody over the entire "base condition water use" as defined in subsections (a) through (d), below. In determining the base condition water use, pursuant to subsections (a) through (d) below, the District shall consider and allow adjustments if the applicant demonstrates that such use is not representative of normal operations due to unanticipated conditions affecting the actual quantity of water withdrawn, such as extreme climatic conditions or equipment failure.

(a) Public Water Supply Use Class: the maximum quantity of water withdrawn by the applicant from the Lake Okeechobee Waterbody during any consecutive twelve month period between April 1, 2001 and January 1, 2008, consistent with the conditions of the existing permit. If a permit allocation existing on January 1, 2008 contains an allocation based on a conversion of a water treatment system, the base condition water use shall be increased to account for treatment losses of the new treatment plant as if the treatment system was operational during the above stated time interval;

(b) Irrigation Use Classes: the quantity of water calculated using Section 2.3.and 3.9.1 considering:

(i) The maximum number of acres actively irrigated by the applicant between April 1, 2001 and January 1, 2008 along with the associated crop type and irrigation method used. When determining the numbers of acres actively irrigated, data regarding historic crop plantings will be evaluated however short term reductions in historic plantings caused by disease or poor market conditions are not to be used in determining the actively irrigated acreage; or

(ii) If the irrigation project, or a portion thereof, has been authorized but not yet constructed pursuant to the conditions of a surface water management construction or environmental resource permit or authorization existing on January 1, 2008, the base condition water use will be calculated based on the number of acres and crop type identified in the environmental resource and water use permit or authorization in place as of January 1, 2008;

(c) Diversion and Impoundment Use Class: the demands of the applicant calculated pursuant to Section 2.7.2 for the physical conditions of the diversion and impoundment system as of January 1, 2008. In situations where historic uses were supplied by the diversion and impoundment project but not expressly identified or incorporated in the diversion and impoundment permit, the base case condition water use will be as calculated to include the historic demands served by the diversion and impoundment project between April 1, 2001 and January 1, 2008, consistent with the conditions of the existing permit.

(d) Other Use Classes: the maximum quantities of water withdrawn by the applicant (annual and maximum month) between April 1, 2001 and January 1, 2008, consistent with the conditions of the existing permit.

(3) Applicants shall provide reasonable assurances that the requested allocation will not cause a net increase in the volume of surface water withdrawn from the Lake Okeechobee Waterbody over the entire base condition water use. This demonstration is provided when the following criteria are met on a project by project scale as calculated pursuant to subsection 3.2.1 (G)(2), above:

(a) Permit Renewals: Those projects which timely seek re-issuance of a previous permit without modifications.

(b) Modifications that Maintain or Reduce Base Condition Water Use Calculated Pursuant to the Existing Permit: Examples of such modifications include changes to withdrawal facilities, irrigated acreage, crop type within the permitted use class, or irrigation efficiency that results in an allocation that is equal to or less than the project's base condition water use calculated pursuant to the

existing permit. In the event that the modification results in a use that is less than the project's base condition water use, the applicant will be required to calculate the reduction from the project's base condition water use associated with the requested modification.

(c) New Projects, Existing Unpermitted Projects, or Modifications Requesting Base Condition Water Use in Excess of the Amount Calculated Pursuant to the Previous Permit: Except for those uses as identified in (4) as an incompatible use, allocations will be provided from the following sources:

(i) Certified Project Water. Water provided from an operational water resource development project, as defined in Section 373.019(22), Florida Statutes, that has been certified by the Governing Board for allocation to consumptive uses, as defined in Section 1.8;

(ii) Lake Okeechobee Waterbody Withdrawals Offset by Alternative Sources. An alternative source of water that is demonstrated to replace the volume, including timing, of water proposed to be withdrawn from the Lake Okeechobee Waterbody over the base condition water use. Examples of offsets include recharge provided by reclaimed water applied to provide recharge to the Waterbody in equal or greater amounts than the proposed increase over the base condition water use;

(iii) Alternative Water Supply. Water provided from a source not restricted under this section such as groundwater, reclaimed wastewater or stored stormwater; or

(iv) Unassigned, Terminated, or Reduced Base Condition Water Use. The requested allocation is for available base condition water use calculated pursuant to subsection 3.2.1(G)(2), above, that was not authorized by an existing permit (i.e. "unassigned"), permitted base condition water use that has been made available through a permit which was terminated after January 1, 2008, or water made available pursuant to a modification made after January 1, 2008 which reduced the permitted base condition water use of an existing permit. In the event of competition for allocation of available base condition water use, those projects that seek an allocation of water in volumes equal to or less than that which was previously permitted to that project and/or used by that project shall be a positive consideration when determining which project best serves the public interest. Prior to February 28, 2010, the Governing Board reserves the right to restrict the re-allocation of terminated base condition water use if it determines that such water is demonstrated to improve the performance of an MFL waterbody under

recovery in terms of shortening the frequency or duration of projected MFL violations or improve the performance of meeting a restoration target as defined in an approved District restoration plan or project while also considering if alternative water supplies are available, whether the proposed use is ancillary to an agricultural use and other relevant public interest considerations. On or after February 28, 2010, the Governing Board reserves the right to restrict the re-allocation of unassigned, terminated, or reduced base condition water use, if it determines that such water is demonstrated to improve the performance of an MFL waterbody under recovery in terms of shortening the frequency or duration of projected MFL violations or improve the performance of meeting a restoration target as defined in an approved District restoration plan or project while also considering if alternative water supplies are available, whether the proposed use is ancillary to an agricultural use and other relevant public interest considerations.

(4) Incompatible Use Type: Requested allocations for new public water supply uses that exceed the thresholds in Subsection 40E-20.302(1)(a), F.,A.C., or increases in existing uses above the project's base condition water use calculated pursuant to Subsection (2)(a), above, shall not be permitted from the Lake Okeechobee Waterbody. Requests for temporary increases over the project's base condition water use from the Lake Okeechobee Waterbody shall be granted to accommodate increased demands during a reasonable time period while alternative sources are constructed provided all other consumptive use permit criteria are satisfied. The duration of the temporary increase shall be determined based on a construction schedule for the alternative source to be implemented with due diligence and defined in permit conditions. Additionally, the permit shall include requirements to reduce the allocation to the base condition water use in accordance with this construction schedule.

3.2.2 Area of Special Concern

If the District determines that the application is in an area of special water concern because of either limitations on water availability or other potentially adverse impacts associated with the proposed withdrawal, then:

A. allocation of water shall be restricted or denied for irrigation purposes when reclaimed water is available and is economically, technically and environmentally feasible,