

3.11.5 Upper Chain of Lakes, Headwater Revitalization Lakes, and Kissimmee River

A permit applicant shall provide reasonable assurances that the proposed use will not withdraw water reserved under Subsections 40E-10.071(1), (2), and (3), F.A.C. Compliance with the following criteria constitutes reasonable assurances that reserved water will not be withdrawn. Water within or contributing to the reservation waterbodies identified below that is not reserved under Subsections 40E-10.071(1), (2) and (3), F.A.C., shall be allocated pursuant to this Subsection.

For this Subsection, the following definitions apply:

Direct Withdrawals of Surface Water: Withdrawal of surface water from facility intakes physically located within a reservation water body defined in Subsections 40E-10.071(1), (2), and (3), F.A.C.

Indirect Withdrawal of Surface Water: Withdrawal of surface water from facility intakes physically located within any of the contributing water bodies identified in section 3.11.5.B of the Applicant's Handbook that provide flows to a reservation water body defined in Subsections 40E-10.071(1), (2), and (3), F.A.C.

Indirect Withdrawals of Groundwater: Water pumped from Surficial Aquifer System well(s) that imposes 0.1 ft. or greater drawdown as determined per Subsection 3.1.2.A of the Applicant's Handbook at the landward edge of the reservation waterbody as defined in Subsections 40E-10.071(1), (2), and (3), F.A.C.

A. The following uses do not withdraw reserved water:

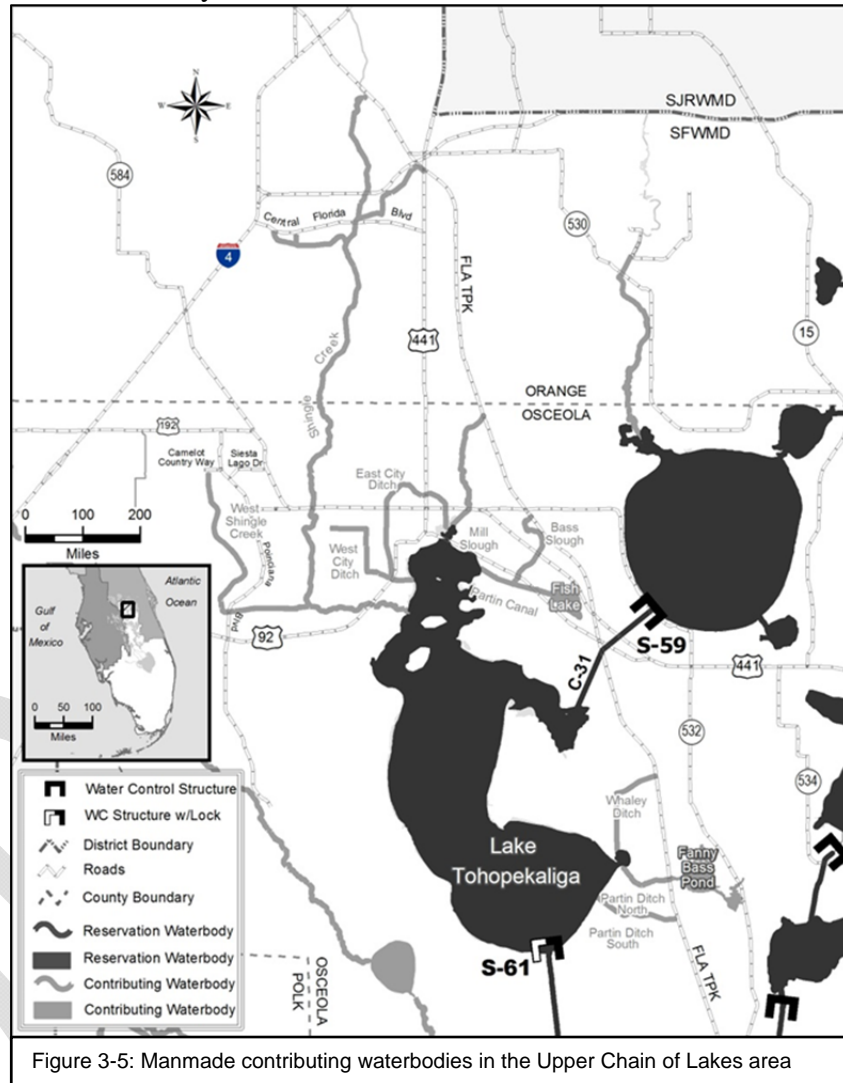
1. Direct withdrawal of surface water from Upper Chain of Lakes reservation waterbodies as defined in Subsection 40E-10.021(15), F.A.C., that occur when the reservation water body stages exceed those stages reserved from allocation as described in Subsection 40E-10.071(1) F.A.C., as determined by the District on a daily basis and electronically posted pursuant to Subsection 3.11.5.C.1.A.iii.a of the Applicant's Handbook; and are authorized by a permit consistent with criteria contained in Subsection 3.11.5.C of the Applicant's Handbook;
2. Indirect withdrawals of surface water that comply with criteria in Subsection 3.11.5.B of the Applicant's Handbook and are authorized by permit consistent with criteria contained in Subsection 3.11.5.C of the Applicant's Handbook;
3. A permit modification involving a direct withdrawal of surface water or an indirect withdrawal of surface water or groundwater that does not change the source, increase the allocation or change withdrawal locations, such as replacement of existing wells or surface water pump with similar construction and at similar locations, crop changes that do not change the allocation or timing of use, or a decrease in allocation;

4. Re-allocation or transfer of water that was allocated as of [rule effective date] involving a direct or indirect withdrawal of surface water or an indirect withdrawal of groundwater;
5. Re-allocation or transfer of a water use permit issued after [rule effective date] for which the applicant previously demonstrated that such use complies with the criteria in Subsection 3.11.5 of the Applicant's Handbook;
6. A proposed new use or a permit modification that does not include a direct or indirect withdrawal of surface water or an indirect withdrawal of groundwater;
7. Withdrawals from the Floridan Aquifer System;
8. District authorized direct or indirect withdrawals of surface water as determined when the District, as local sponsor of the C&SF Project, is making discharges from the reservation water bodies for either: a) flood protection purposes; b) operations associated with maintenance of C&SF Project components; or c) to benefit fish and wildlife. Notice of such authorizations shall be electronically posted as described in Subsection 3.11.5.C.1.A.iii.a of the Applicant's Handbook.

B. Withdrawals from Contributing Waterbodies

1. Indirect Withdrawal of Surface Water
 - a. Wetlands and other surface waters
 - i. Waterbodies Regulated: Wetlands and other surface waters as defined in section 3.3 of the Applicant's Handbook that are contiguous with and provide surface water flow into a reservation water body defined in Subsections 40E-10.021(7)–(14), F.A.C.
 - ii. Allocation criteria: Applications for indirect withdrawal of surface water that meet the criteria contained in Section 3.3 of the Applicant's Handbook do not withdraw reserved water defined in Subsections 40E-10.071(1), (2) and (3), F.A.C.
 - b. Manmade contributing waterbodies
 - i. Waterbodies Regulated; as illustrated on Figures 3-5 through 3-7.
 1. Upper Chain of Lakes: Partin Canal from Fish Lake to Lake Tohopekaliga, including Bass Slough Branch from the turnpike to Partin Canal; East City Ditch from Lake Tohopekaliga to its junction to the West City Ditch; Northwestern segment of the West City Ditch from Lake

Tohopekaliga to West Martin Street; Whaley Ditch and Partin Ditch South from Lake Tohopekaliga to the Florida Turnpike; and Partin Ditch North from Lake Tohopekaliga to Fanny Bass Pond.



2. Headwater Revitalization Lakes: Zipprer Canal from the G-103 structure to Lake Rosalie, Jackson Canal from the G-111 structure to Lake Jackson.

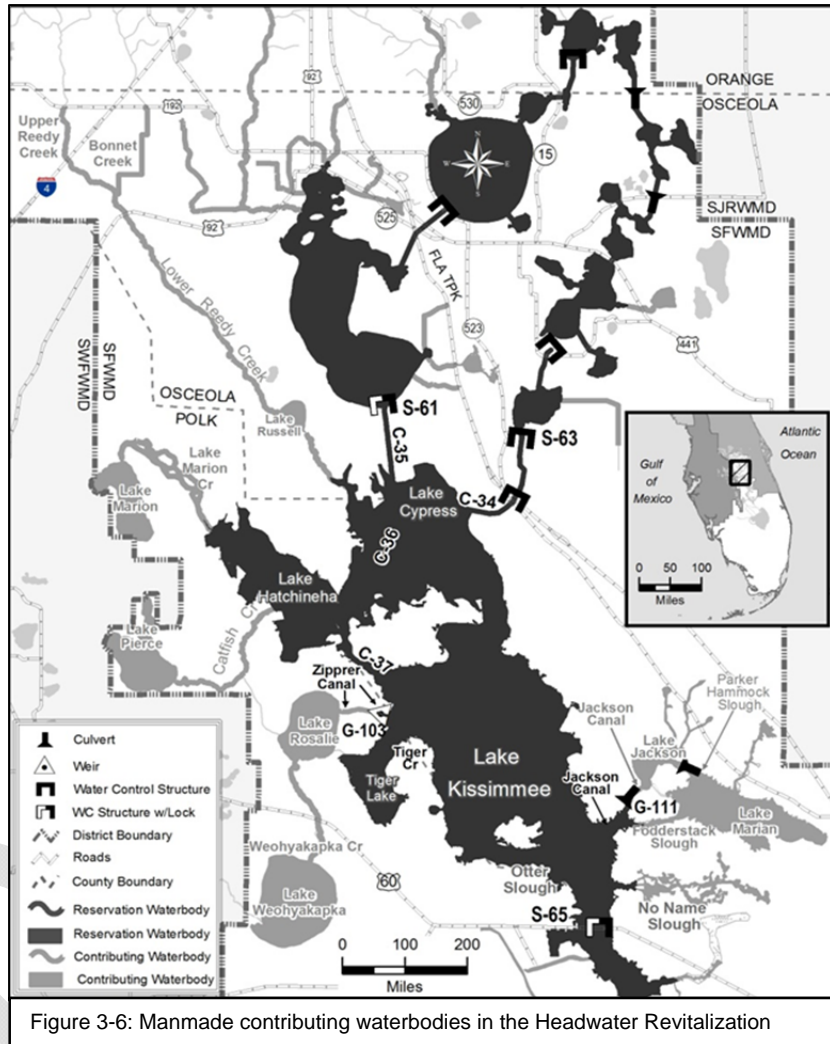
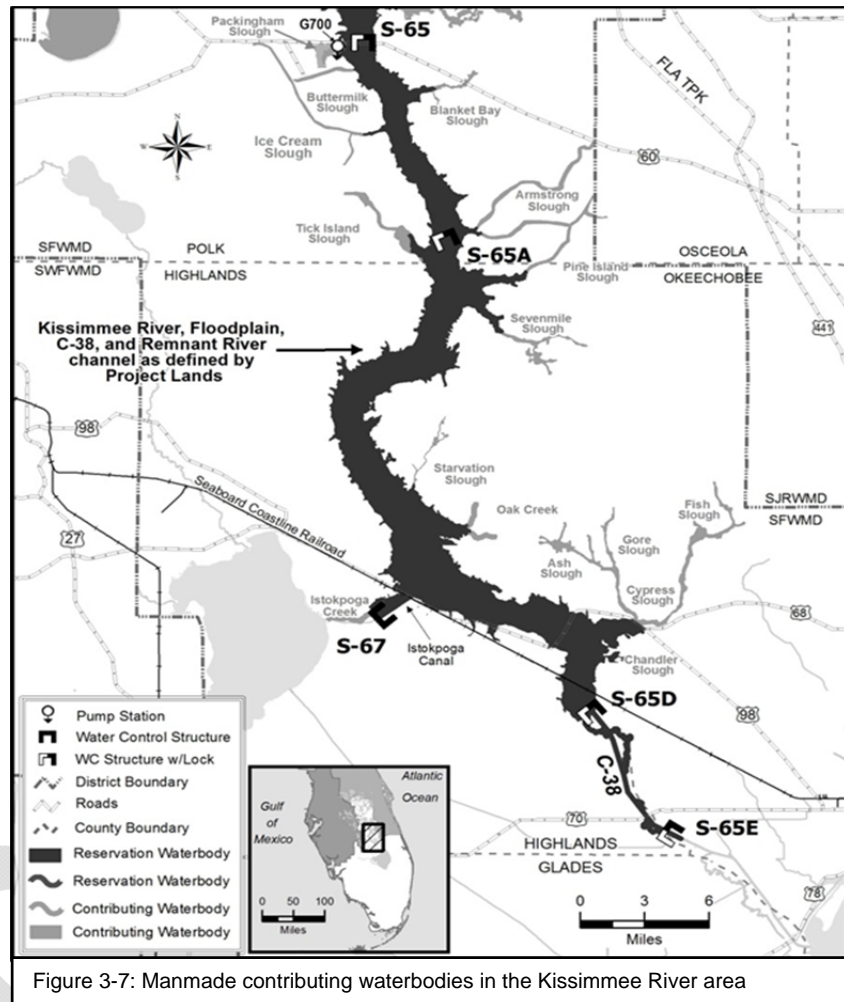


Figure 3-6: Manmade contributing waterbodies in the Headwater Revitalization

3. Kissimmee River: Buttermilk Slough Canal from the Kissimmee River to the junction of Ice Cream Slough Canal; Ice Cream Slough Canal from the Kissimmee River to State Road 60; both branches of Armstrong Slough Canal from the Kissimmee River to their upstream terminus; Starvation Slough Canal from the Kissimmee River to its upstream terminus; Oak Creek Canal.



4. Allocation criteria: Withdrawals of surface water from waterbodies identified in Subsection 3.11.5.B.1.b of the Applicant's Handbook do not use reserved water when the indirect waterbody is discharging to the reservation waterbody as determined when stage elevation, as measured within 25 feet downstream of the withdrawal point during pumping, is greater than the concurrent day stage of the receiving reservation water body as posted on www.sfwmd.gov/.

2. Indirect Withdrawals of Groundwater:

Withdrawals from Surficial Aquifer System well(s) that impose no more than 0.5-foot of drawdown, as determined pursuant to Subsection 3.1.2.A of the Applicant's Handbook, individually and cumulatively at the landward edge of the reservation waterbodies defined in Subsections 40E-10.021(7) – (14), F.A.C., do not use reserved water.

C. Kissimmee Basin Water Reservation Permit Classification System for Surface Water Withdrawals and Criteria

The availability of water for direct and indirect surface water withdrawals from Kissimmee Basin reservation waterbodies, as defined in 3.11.5.B., is ephemeral. Allocations from this source do not have the 1-in-10 level of certainty afforded other consumptive use permit allocations. Hence, a unique category of consumptive use permit is created for allocation of these sources. Such permits will be given a “WS” designation. The “WS” designation indicates availability of water for withdrawal will be determined by the District on a daily basis, consistent with Rule 40E-10.071, F.A.C. Applicants shall consider the purpose of their proposed use, the variability of the source, the suitability of this source to the proposed use, and the rights of existing legal uses. “WS” permits are subject to the additional following criteria and applicable special conditions in Subsection 5.2.3.K.9.

1. Additional Criteria for Issuance for “WS” Permit Applications:

a. Specific Reasonable – Beneficial Use Criteria:

- i. Suitability of the source for the use: The applicant must consider the ephemeral nature of the supply in demonstrating that this source is suitable for the intended use. This may be accomplished by:
 1. Demonstrating the proposed withdrawals represent a supplemental supply used in conjunction with other primary source(s) of water such that the sources, used in combination, meet the reasonable-beneficial needs of the use. Operational plans that describe how both sources will be used to meet the reasonable-beneficial needs shall be submitted in the application and shall be incorporated as a permit condition.
 2. Demonstrating the proposed use is compatible with the variable nature of the source (i.e., uses described in Chapter 40E-5, F.A.C.).
- ii. Assessment of Downstream Impacts to the Kissimmee River: The applicant shall provide reasonable assurance that the proposed use will not impact the District’s Kissimmee River related objectives set forth in Section 373.1501, F.S. To provide these assurances, the applicant shall analyze the effects of: (a) the individual impact of the proposed withdrawal and (b) the impact of the cumulative withdrawals of the proposed use combined with all other permitted withdrawals from reservation waterbodies within the Upper Chain of Lakes. These analyses shall demonstrate the individual and cumulative withdrawals do not reduce average discharges at S-65

178 by greater than 5 percent as compared with a no withdrawal
179 condition over a range of hydrologic variability that occurred
180 between 1965 and 2005.
181

182 iii. Allocation: A “WS” designated permit shall be issued a daily
183 allocation only. The daily allocation shall be proposed by the applicant and
184 based on the reasonable-beneficial demand for the use class as calculated
185 pursuant to Section 2.3 and the rated capacity of the associated withdrawal
186 facilities, whichever is less. For phased projects whose daily reasonable
187 beneficial demand for water increases over the permit duration as project
188 phases are implemented, the permitted allocation shall be based on the water
189 needed for the final project phase. However, over the life of the permit, the
190 amount of water authorized to be withdrawn on a daily basis will be limited to
191 the active phase(s) of the project. The applicant shall provide a schedule of
192 project implementation that details the timing and daily withdrawal rate of each
193 phase.
194

195 b. Authorization of “WS” permitted daily surface water withdrawals:
196

197 i. Notification: On a daily basis, the District shall electronically post
198 notice on its website (www.sfwmd.gov/____) of a permittee’s
199 authorization to withdraw their permitted volume as described in Section
200 3.11.5.C.1.a.iii. of the Applicant’s Handbook.
201

202 ii. Daily determination of water availability from a reservation
203 waterbody:

204 1. In determining whether water is available for withdrawal in
205 excess of the reservation, the District shall compare the cumulative
206 authorized daily allocations for all direct withdrawals of surface
207 water from a reservation waterbody with the stage-storage
208 information in Table 4-7 found in Appendix 4 of Rule 40E-10,
209 F.A.C., to determine the daily cumulative lake stage drawdown of
210 existing legal uses. On a daily basis, the District shall compare the
211 cumulative lake stage drawdown of existing legal uses with
212 projected lake stage and the day’s reservation lake stage defined in
213 Subsection 40E-10.071(1), F.A.C., to determine if water is
214 available for withdrawal. In determining the authorized daily
215 allocations, the District shall use the full permitted allocation or in
216 the case of phased projects, the allocation assigned to the active
217 project phase(s). Reductions in withdrawals below the permitted
218 amounts of the active projects or phases, either voluntary or due to
219 operational failures shall not be considered by the District in the
220 daily determination of supply.

2. Project-related discharges and withdrawals: When the District, as local sponsor of the C&SF Project, is making discharges from the reservation water bodies for either: a) flood protection purposes; b) operations associated with maintenance of C&SF Project components; or c) to benefit fish and wildlife.

c. Interference with Existing Legal User Criteria

When the District determines that the available water from a source identified in Subsection 40E-10.XXX(x), F.A.C., is insufficient to meet all authorized daily allocations of the “WS” designated permits, permitted uses will be restricted to prevent interference in the following manner:

i. Determination of insufficient supply: For the purposes of this subsection, insufficient supply exists when the daily volume of water available for withdrawal calculated pursuant to Subsection 3.11.5.C.1.A.b.ii. of the Applicant’s Handbook is less than the cumulative allocation of all existing legal users. When the District determines there is insufficient supply, temporary restrictions of daily withdrawals shall be implemented to prevent interference with existing legal users.

ii. Interference between permittees: When the District determines there is insufficient supply, the projected volume of water available for withdrawal as calculated by the District pursuant to Subsection 3.11.5.C.1.A.iii.b shall be compared to the cumulative allocations of the reservation waterbody. The daily allocation of the most junior user (last issued permit or modification of the group as described below) shall be dropped and the remaining cumulative allocation shall be compared with the day’s calculated available water. If the remaining allocations still exceed the day’s water supply the next junior use is dropped and so on. Once the calculated volume of water available for the day equals or exceeds the cumulative volume of the remaining senior uses, those remaining users shall receive authorization to withdraw their daily allocation. The restriction of water withdrawals will remain in effect until the District notifies permit holders that they may resume withdrawals.

iii. User Priority: Existing legal users shall have priority withdrawal rights over subsequently-issued allocations during times of

insufficient supply. The priority of withdrawal right over subsequently issued allocations for “WS” designated permits shall be based on when the permit was issued.

1. Modifications: In the event a permit is subsequently modified to increase the allocation over the initially-issued allocation, the priority of withdrawal right for the additional allocated water will be the date of permit modification. The priority of the original permitted allocation shall not change.
2. Phased projects: The user priority of phased projects shall be determined based on the date of permit issuance. For the purposes of determining the daily sufficiency of supply, the District shall consider the needs of the active phase(s) of the project only.
3. Renewals: Timely renewals shall maintain their original user priority(ies) based on the date of initial permit issuance for purposes and subsequent modifications if applicable as prescribed by this Subsection.
4. Transfers: Permit transfers issued pursuant to Rule 40E-1.6107, F.A.C., will maintain the previously established user priority.

For “WS” designated permits, compliance with these criteria meets the mitigation plan requirements of Subsection 3.7.3 of the Applicant’s Handbook. District operation of the C&SF Project does not constitute interference or impose any mitigation responsibility.

5.2.3 Compliance, Monitoring, and Reporting

K. Specific Region Special Conditions

9. Special Conditions for “WS” Permits: Applications for a “WS” designated permit shall be subject to the following Special Conditions:

- a. This is a “WS” designated permit.

Allocation:

The daily allocation is (recommended actual allocation) _____ (GPD or MGD).

Allocation from a specific source (aquifer, facility, or facility group):

The availability of water for direct and indirect surface water withdrawals in “WS” designated permits is ephemeral and does not have a 1-in-10

level of certainty afforded other consumptive use permit allocations. Compliance with the allocation is based on the quantity withdrawn over a single day.

The Permittee's withdrawal of water shall not occur unless authorized by the District on a daily basis as posted on www.sfwmd.gov/.

b. Daily withdrawals for each withdrawal facility shall be reported to the District quarterly. The water accounting method and means of pump calibration shall be stated on each report.

c. For withdrawals from manmade contributing waterbodies, daily canal stage elevations, referenced to NGVD, shall be measured, compared to same day stage elevations of the receiving reservation water body as electronically posted on www.sfwmd.gov/, and recorded with the withdrawal amount each day a withdrawal is made. Daily elevation data shall be reported to the District quarterly.

d. For phased projects, the daily withdrawal authorization shall be made for the active phase(s) in place and approved by the District. The Permittee shall provide the District with a notice of project phase implementation once a project phase is operational. Upon verification the District shall increase the daily allocation volume accordingly.