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# SOUTH FLORIDA WATER MANAGEMENT DISTRICT



## **Audit of the Permitting Process**

Report # 04-10

Prepared by

**Office of Inspector General**

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## SOUTH FLORIDA WATER MANAGEMENT DISTRICT

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MGT 08-06F

September 24, 2004

Audit Committee Members:  
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Mr. Kevin McCarty, Vice Chairman  
Mr. Irela Bagué, Member  
Mr. Michael Collins, Member  
Mr. Hugh English, Member

Re: Draft Report – Audit of  
Permitting Process,  
Report No. 04-10

This review was performed pursuant to the Inspector General's authority set forth in Chapter 20.055, F.S. and is part of the approved FY 2004 Audit Plan. The audit focused on determining if management has a permitting process in place to meet the statutory obligations to issue permits within defined parameters, and review applications in accordance with statutes and District rules. Our audit results concluded that permits were being issued in accordance with statutory administrative requirements couple with application reviews in accordance with the District's Basis of Review rules and applicable Florida statutes. This report was prepared by Greg Rogers.

Sincerely,

John W. Williams, Esq.  
Inspector General

Enclosure

c: Henry Dean  
Carol Wehle

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# TABLE OF CONTENTS

<b>INTRODUCTION.....</b>	<b>1</b>
<b>BACKGROUND .....</b>	<b>1</b>
<b>OBJECTIVE, SCOPE, AND METHODOLOGY .....</b>	<b>2</b>
<b>PERMITTING PROCESS.....</b>	<b>3</b>
<b>COMPLIANCE TESTING RESULTS.....</b>	<b>10</b>
<b>MANAGEMENT’S COMMENTS.....</b>	<b>12</b>

## **INTRODUCTION**

In accordance with the Office of Inspector General's approved 2004 audit plan we performed an audit of the South Florida Water Management District's (the "District") Environmental Resource Regulation Department's (the "Department") permitting process for accepting and reviewing applications for several different permit types.

## **BACKGROUND**

The Environmental Resource Regulation Department is organizationally situated under Water Resources at the District. The Department's goal is to provide fair, consistent and timely review of permit applications in accordance with adopted rules and criteria of the District, ensure compliance with issued permits, and take enforcement action where necessary.

Permits are reviewed by the following divisions and service centers:

*Natural Resources Management* – 15 positions – This group reviews and makes recommendations for approval/denial of Environmental Resource Permits (ERP) that must be obtained by applicants before beginning any activity that could affect wetlands, alter surface water flows, or contribute to water pollution. The ERP combines wetland resources permitting with management and storage of surface waters permitting into a single permit, to streamline the permitting process.

*Surface Water Management Division* – 18 positions – The Division reviews applications for Environmental Resource Permits and Surface Water Management Permits (SWM) by applying the rules and criteria addressing flood protection, water quality treatment and wetland protection.

*Everglades Stormwater Regulation* – 19 Positions - With a mission of ensuring that State water quality standards are met by all structures discharging water into the Everglades Protection Area by 2006, the Division consists of an Everglades Regulation, Everglades Stormwater and a technical assistance section. Post permit compliance of Everglades Works of the District permits is also performed by this Division. Compliance with the Everglades Privilege tax was previously audited (see Audit Report # 98-11).

*Department Staff* – 8 positions - Consists of the Department Director, Deputy Director, a business operations section and administrative assistants. This group manages policy and business operations.

*Regulatory Information Management* – 30 positions – This Division provides permit administration, records management, data management, GIS and other administrative support for the District's permitting function and automation support for the Environmental Resource Regulation Department and Water Use Permitting at all District permitting locations. Data is maintained on an Oracle database and maps are maintained on a GIS database.

*Environmental Resource Compliance* – 19 positions - Division responsibilities include all aspects of compliance and enforcement for Permitted (primarily ERP/SWM) and Non-permitted projects including surveillance, public complaints, permit compliance inspections, and enforcement.

*Service Centers* – Permit applications may also be submitted at the following Service Centers: Lower West Coast (Ft. Myers – 23 positions), Orlando (13 positions) and Okeechobee (4 positions). Environmental resource compliance activities are also performed out of these and the Martin-St. Lucie Office (3 positions).

*Water Use Regulation* – 33 positions -Water use permits are reviewed by the Water Use Regulation Division of the Water Supply Department. The mission of this Division is to assure that water uses permitted by the District are reasonable, beneficial, will not interfere with presently existing legal users of water, and are consistent with the public interest. This Division also performs post-permit compliance for water use permits.

## **OBJECTIVES, SCOPE AND METHODOLOGY**

The objectives of this audit were to determine if management has a permitting process in place to:

- Meet the statutory obligations to issue permits within defined parameters, and
- Review applications in accordance with statutes and District rules.

The Scope of the audit included:

- The permitting process from receipt of application through the approval or denial of the permit, and
- Compliance with laws, rules and regulations<sup>1</sup> during the permit process.

This audit concentrated on the first element of the Department's goal (permit application review), as previous audits<sup>2</sup> concentrated on the second and third element of the Department's goal.

Our methodology included:

- Interviews with Regulatory management
- Review of applicable laws, rules and regulations
- Review of selected permit staff permit reports
- Review of permit statistical reports

Our audit was conducted in accordance with generally accepted government auditing standards.

## **THE PERMITTING PROCESS**

The Department uses a common permit application review process for accepting and reviewing the following applications:

- Environmental Resource
- Surface Water Management
- Water Use
- Works of the District

The permitting process is summarized below and flowcharted at Appendix A. Applications for permits are received by the Regulatory Information Division where the pertinent information is entered into the District's Oracle regulatory database. The

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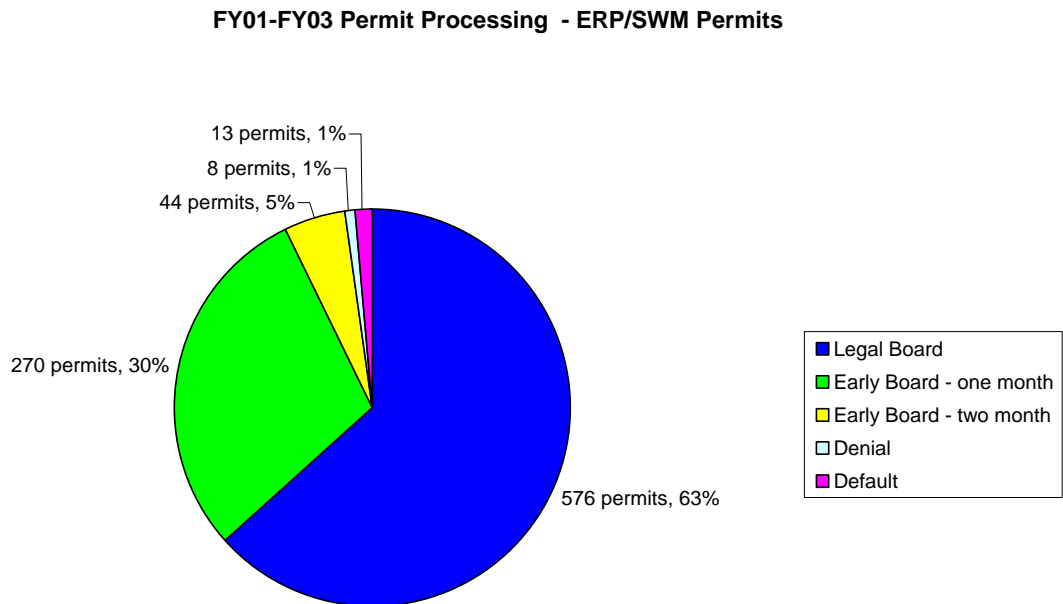
<sup>1</sup> Rules include Ch. 40-E-4, F.A.C. Environmental Resource Permits; Ch. 40E-2, Consumptive Use; Ch. 40E-63, Everglades Regulatory Program; Environmental Resource Permitting Basis of Review; and Water Use Basis of Review.

<sup>2</sup> See Audit # 99-09 Audit of the Environmental Regulation Compliance Program, and Audit # 01-20 Audit of Water Use Permitting Process.

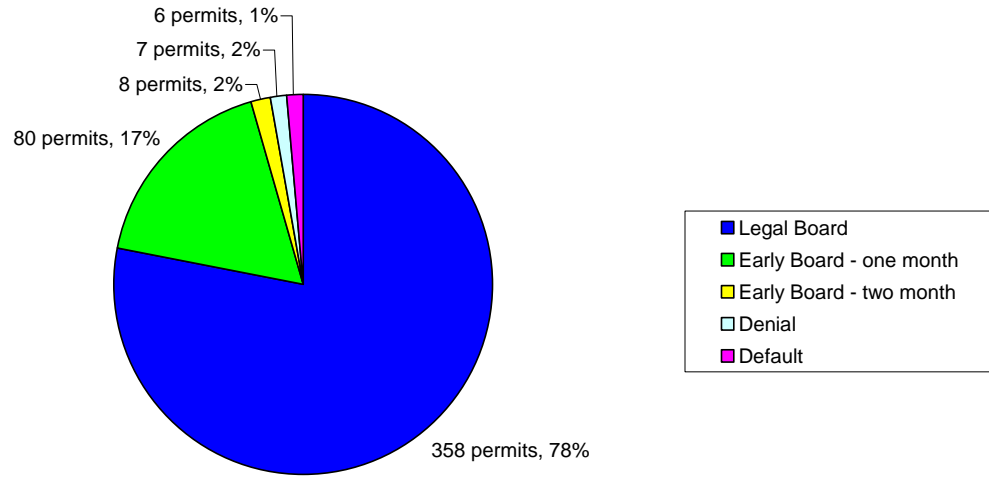
permitting process operates under time restraints mandated by Statute and rules. The rules serve as the criteria for reviewing and approving permits.

The District has 30 days to review the application for completeness, or make a request for additional information. If the request for additional information is made, the applicant, in turn, has 90 days to supply the information. Sometimes a second or even third round of information-gathering is necessary to clarify specific points, with a 30-day time clock for both parties. If the applicant does not meet these deadlines, the permit may be denied unless a written request for an extension is received before the deadline. If the District fails to meet the deadlines, the permit is automatically approved by default.

Once the application file is complete, the District has 60 days to authorize general permits and 90 days to take final agency action on individual permits. Historically, the District has had very few applications automatically approved through default. In fact, it is the Department's practice to bring permits to an early board for approval whenever possible. The percentage of early board, legal boards, denials and defaults for the past three fiscal years is displayed for all Individual Environmental Resource/Surface Water Management and Water Use permits issued below:

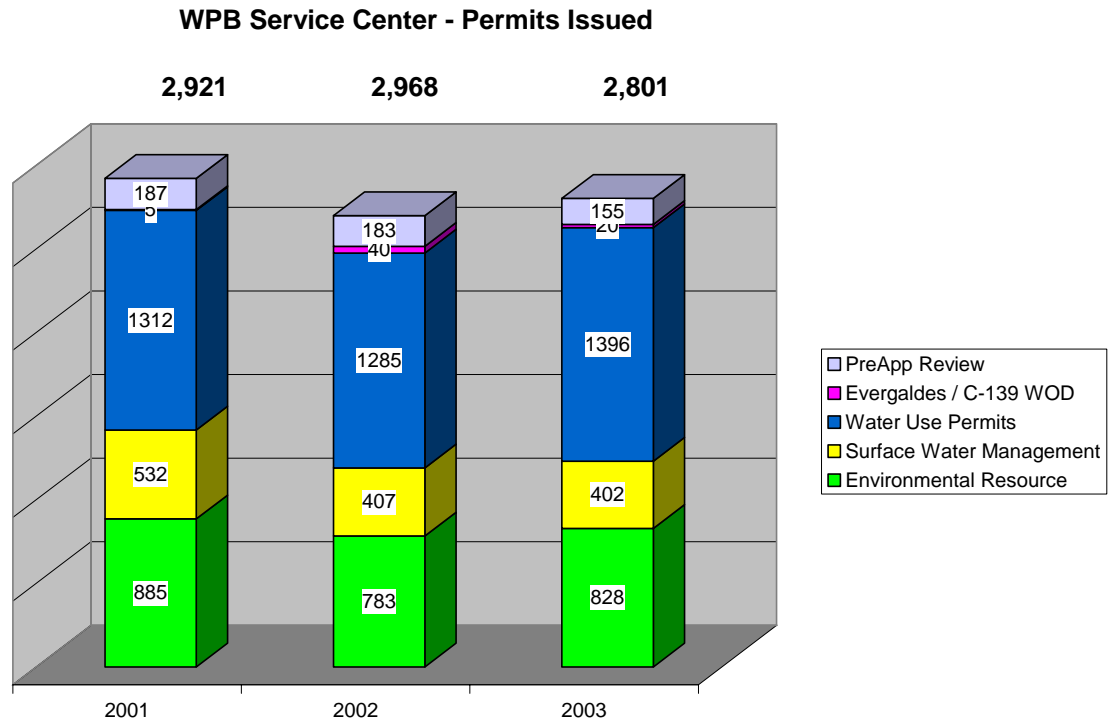


**FY01-FY03 Permit Processing - Water Use Permits**





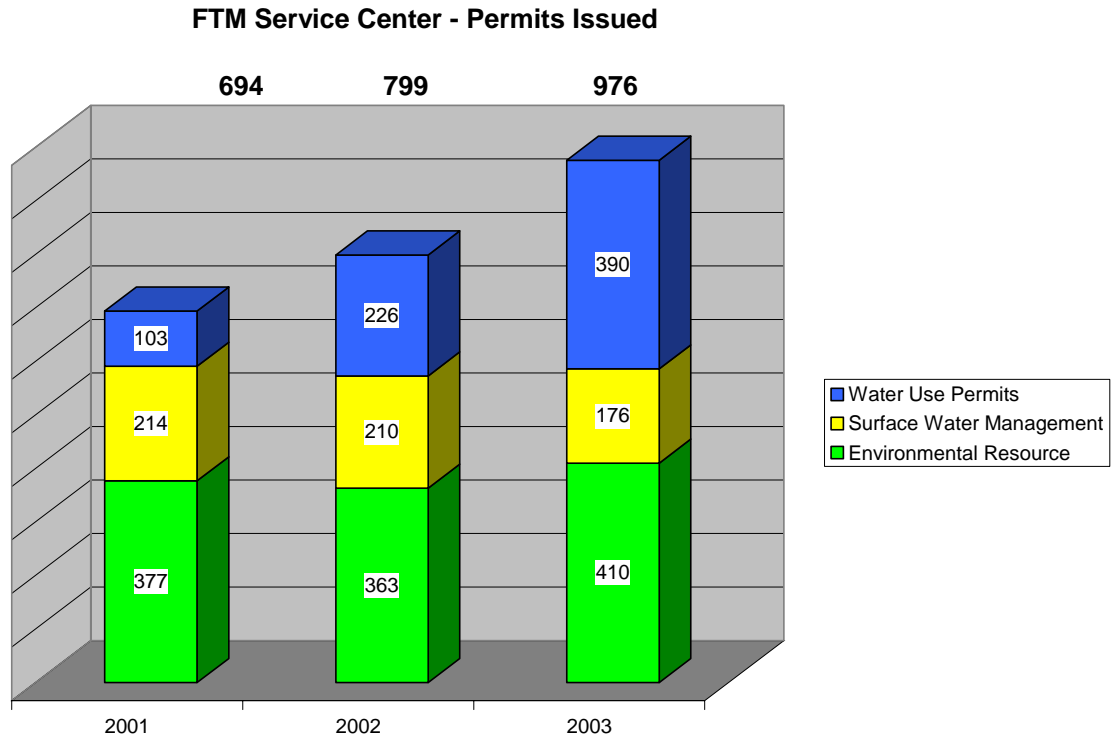
The graphs below show the number of permits issued by Service Centers by type for Fiscal years 2001-2003.<sup>3</sup>



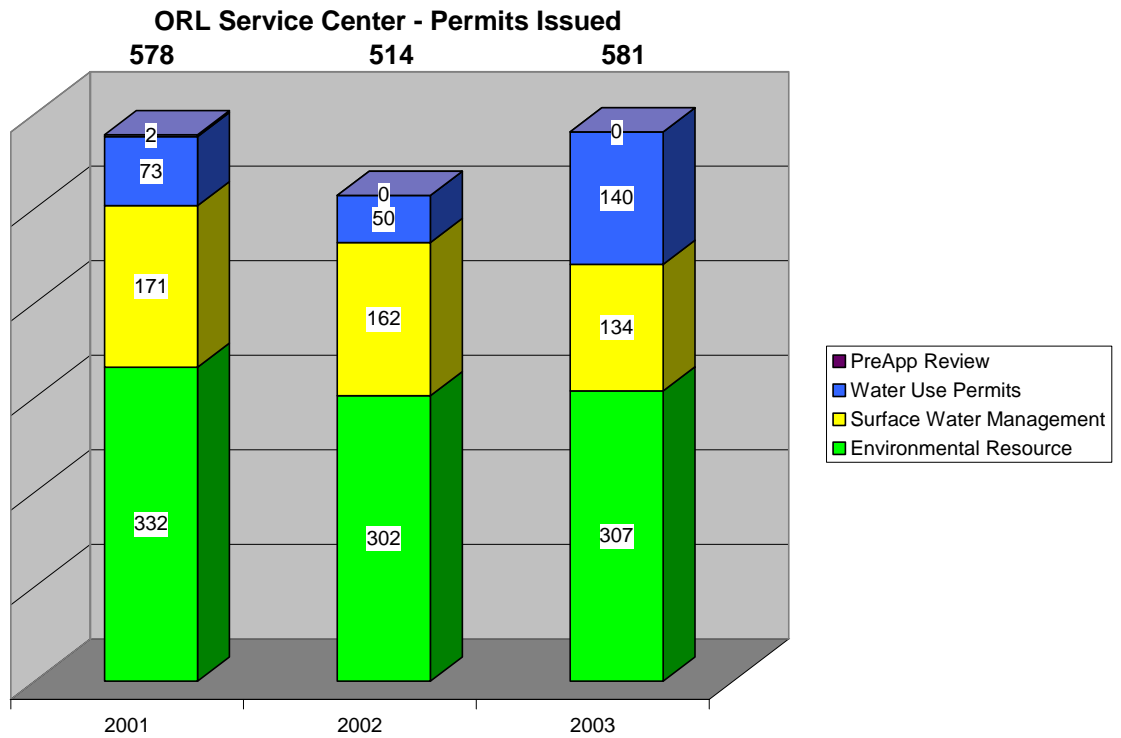
The West Palm Beach Service Center (WPB) permit volume doubles that of the next largest service center. The volume at this service center has remained steady during the three year period. The WPB service center has the highest number of Water Use permits among the service centers, which also represent the highest percentage of the WPB service center’s workload. The WPB service center also processes the highest number of ERP permits of any service center, however, they represent a much lower percentage of work load compared to other service centers. Water Use permit issuance is increasing due to the mandated renewal process. The renewal of all Individual and Major General Water Use Irrigation permits within the South Florida Water Management District boundaries began in FY2003. The renewal process consists of the review and re-issuance of the original permit in accordance with current District rules provided no changes in source, irrigated acreage, or allocation, have occurred since the original permit was issued. There are approximately 3,000 irrigation permits that will be renewed through

<sup>3</sup> Includes new individual and general permits, modifications, no notice and noticed general permits, permit exemptions, extensions and transfers.

FY2009 in addition to the normal volume of new and modified water use permits shown graphically in this report.

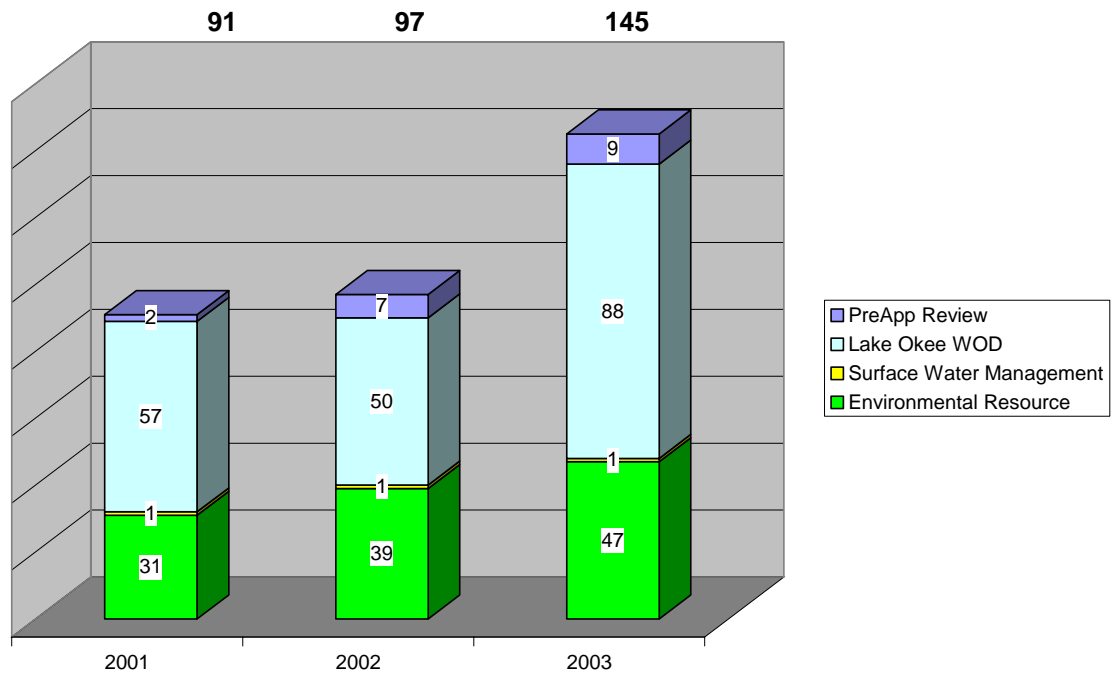


The Fort Myers Service Center is the second busiest in volume of permits issued. With 15 and 22 percent increases in volume during FY 2002 and FY 2003, respectively, it is the fastest growing permit center in the District. Water Use permits have tripled from 2001 to 2003. Ft. Myers has the second highest percentage of ERP permits.



Orlando, the third busiest permit center, has issued a steady volume of permits over the past three years and the highest percentage of ERP permits.

### Okee Service Center - Permits Issued



Finally, the Okeechobee Service Center is the lowest volume permit center in the District. This is due in large part to water use permits not being issued out of the service center. The Service Center does not have staff assigned with the hydrogeologic knowledge to review these types of permit applications, which are reviewed and issued through the West Palm Beach Service Center.

All Individual permit applications at all Service Centers are ultimately subject to approval or denial by the Governing Board.

We performed a workload analysis of the Service Centers based upon the number of Environmental Resource and Surface Water Management permits and the staff reviewers and supervisors at each service center for fiscal year 2003. This workload analysis compared the ratio of new individual permits issued per regulatory professional assigned at each service center. We found that the regulatory positions reported at the Service Centers are not directly comparable to the West Palm Beach Service Center regulatory positions due to differences in managerial and support staffing. Due to these factors, and the range in complexities of permit review, we did not reach any conclusions from this one fiscal year analysis; however, Department Management should consider a

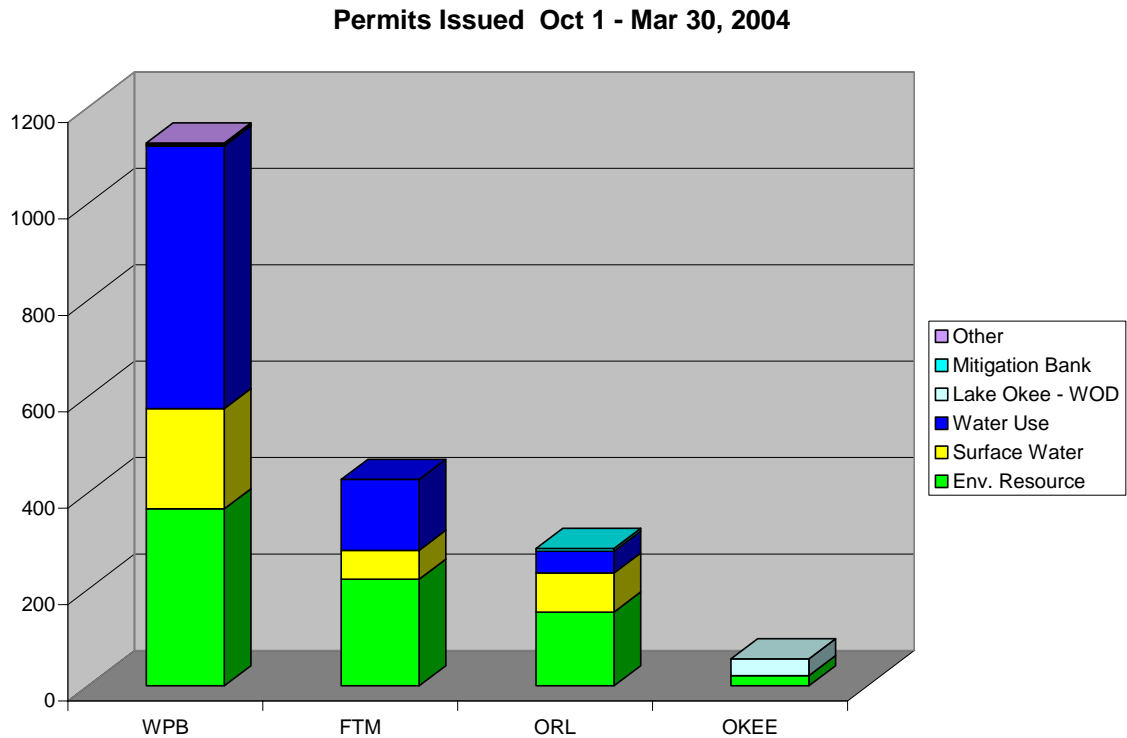
more intensive analysis of workload at the Service Centers. Additionally, workload indicators could be added to the performance metrics maintained for tracking Department performance.

The permitting process is both administratively and paper intensive. The State has requested that all the water management districts incorporate the option of E-Permitting. The Department has completed an E-Permitting cost/benefit analysis and plans on moving forward in initial implementation of an E-permitting system during FY2005.

In addition to allowing permit applications to be received electronically, there are opportunities for electronic review and approval of permits that could increase efficiencies.

**COMPLIANCE TESTING RESULTS**

During the period of testing October 1, 2003 to March 30, 2004 the following permits were issued:



In accordance with our planned audit procedures, we randomly selected a cross-section of Permit Files for review to determine compliance with rules and statutes. Our 45 testing selections provided coverage of the most commonly issued permits at all of the District's Service Centers. Based upon the results of our testing, we determined that the Department is issuing permits in accordance with statutory administrative requirements coupled with application reviews in accordance with the District's Basis of Review rules and applicable Florida statutes.

Additionally, we noted that staff permit reviews were appropriately balanced to concentrate efforts on the permits with the most potential impact on the region's water resources. To this end, the District has adopted rules creating a new category for water use permits<sup>4</sup> and delegating the review of lower risk Environmental Resource Permits in the eastern sections of Broward County<sup>5</sup>.

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<sup>4</sup> A Major General Permits category was created for uses between 3 million gallons per month (MGM) and 15 MGM. Major GP's require the same information as an Individual Permit and are issued by staff.

<sup>5</sup> Primarily developments in the urban eastern portions of the county with low risk to the region's water resources.

## **MANAGEMENT'S COMMENTS**

Management appreciates the audit review of the regulation permitting process and concurs with its findings that the District is issuing permits in accordance with statutory and District rule requirements.

As found in the audit, we too recognize that the regulatory positions in the Service Centers are not directly comparable to the West Palm Beach regulatory positions due to differences in managerial and support staffing and the range in complexities of permit review. We agree with the recommendation that the Environmental Resource Regulation and Water Supply Departments undertake a more intensive analysis of workload at the Service Centers and that evaluation is currently underway.

We also agree that opportunities for electronic review and approval of permits could increase efficiencies. Initial implementation of an e-permitting system has been approved as a District priority for FY05 and a project manager has recently been hired to head-up this initiative.