

AGENDA**Reservation of Water Made Available from the CERP
Caloosahatchee River (C-43) West Basin Storage Reservoir****Rule Development Workshop #3**

January 23, 2014 – 10:00 A.M.

South Florida Water Management District

Lower West Coast Service Center

2301 McGregor Boulevard

Fort Myers, FL 33901

1. Introductions
2. Recap from Last Public Workshop and Project Overview – Don Medellin
3. Review Draft Rule Language – Beth Lewis
4. Overview of Statement of Estimated Regulatory Costs – Ian Miller
5. Next Steps – Don Medellin
6. Public Comments

THIS WORKSHOP IS OPEN TO THE PUBLIC. COMMENTS ON THE DRAFT RULE LANGUAGE AND DOCUMENT TO SUPPORT THE RULE ARE REQUESTED TO BE SUBMITTED BY FEBRUARY 10, 2014 TO:

Jan Sluth, Senior Paralegal, Office of Counsel, South Florida Water Management District, P.O. Box 24680, West Palm Beach, FL 33406; (800) 432-2045, ext. 6299; (561) 682-6299; jsluth@sfwmd.gov or submit comments directly to the Rule Development Forum of the SFWMD web conferencing board available at: <http://sfwmd.websitetoolbox.com/>

An aerial photograph showing a wide river or bay with a long bridge spanning across it. The surrounding area is a mix of green marshland and some developed land with buildings and roads. The water is dark blue, and the sky is light blue with some clouds.

PUBLIC WORKSHOP
January 23, 2014

**Water Reservation for the CERP Caloosahatchee River
(C-43) West Basin Storage Reservoir Project**

Welcome



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January 23, 2014

Water Reservation for the CERP Caloosahatchee River (C-43) West Basin Storage Reservoir Project

Recap of Water Reservation

Don Medellin

Principal Scientist

Coastal Ecosystems Section, Applied Sciences Bureau



Objectives of Workshop

- Reservation Overview
- Recap of last public workshop
- Discuss draft rule language
- Discuss statement of estimated regulatory costs (SERC)
- Outline next steps
- Public comment period



Recap of Last Workshop

- Differences between the Federal and State processes
- Legal standards associated with rule development
- Consistency between the Project Implementation Report (PIR) and the proposed rule
- Introduced draft rule language



Recap of Water Reservation Rule

- Protects all water within the C-43 Reservoir
 - maximum flexibility in amounts of water reserved
- Rule implemented once constructed/operated
- Rule revisited prior to operation
- Existing legal uses protected

An aerial photograph of a coastal wetland area. In the foreground, there are dense green mangrove islands. A body of water separates these from a bridge in the middle ground. The background shows more land and water under a clear sky.

Governing Board Direction

- Staff directed to focus reservation rule on protection of water for the CERP Caloosahatchee River (C-43) West Basin Storage Reservoir project
 - Reserve water consistent with PIR
- Reservation is a critical path step to obtain federal funding for initiating construction

Rule Development Process

C-43 Reservation Activity	Date
WRAC and Governing Board Meeting - Briefing for Proposed Rulemaking	November, 2011
Governing Board Direction on Scope of C-43 Reservation	December, 2011
C-43 Public Workshop #1	February 2012
C-43 Public Workshop #2	March 2012
Draft Documents to Support Rule Development	June-December 2013
C-43 Public Workshop #3	January 23, 2014

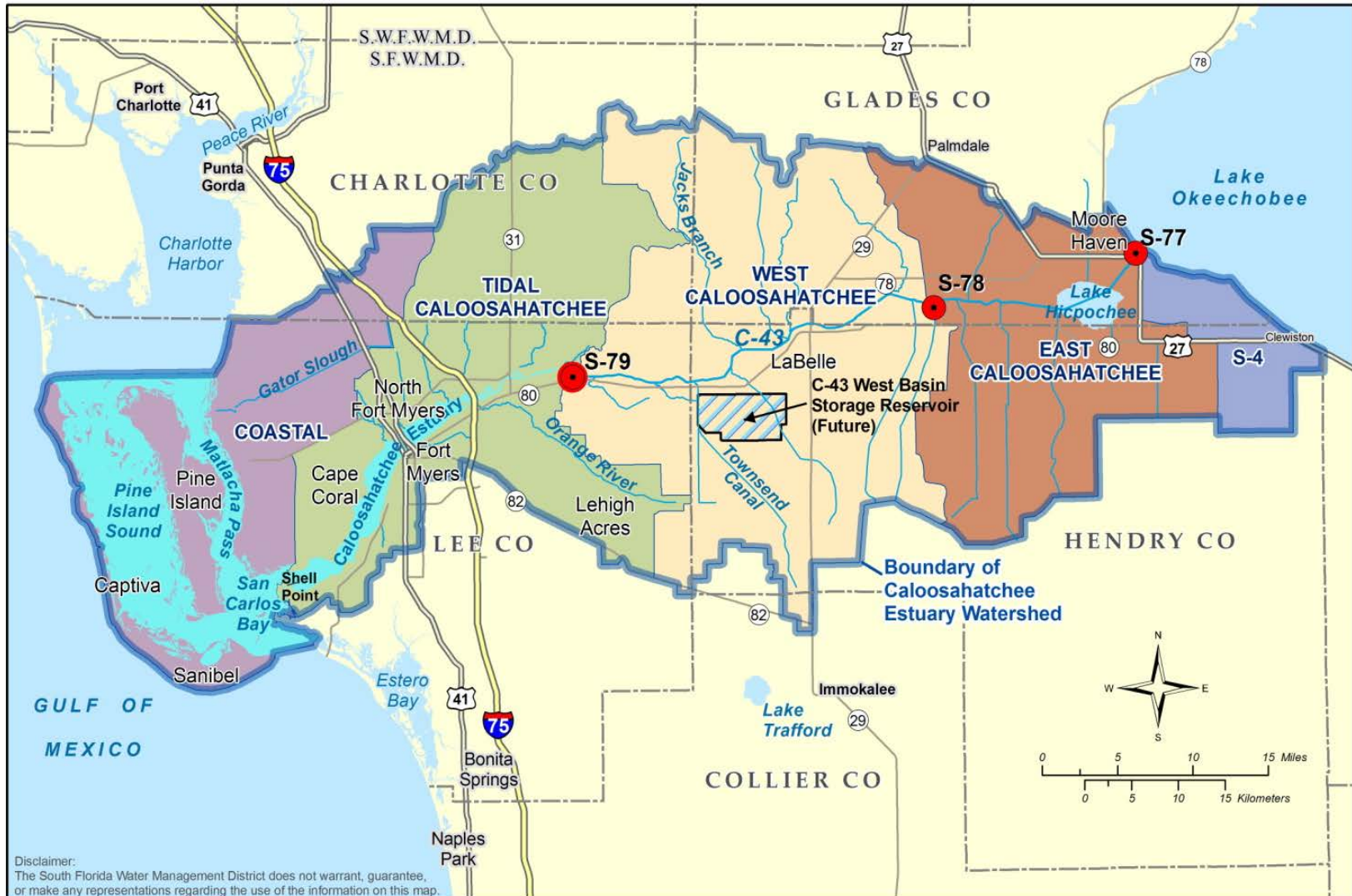


C-43 Project Background

- Improve the quantity and timing of freshwater flows to the Caloosahatchee Estuary
- Capture excess flows and reduce a portion of damaging high flows to the Estuary during the wet season
- Release water to the estuary when needed during the dry season
- Improve salinity regime in the downstream estuary
- Improve habitat function for estuarine biota

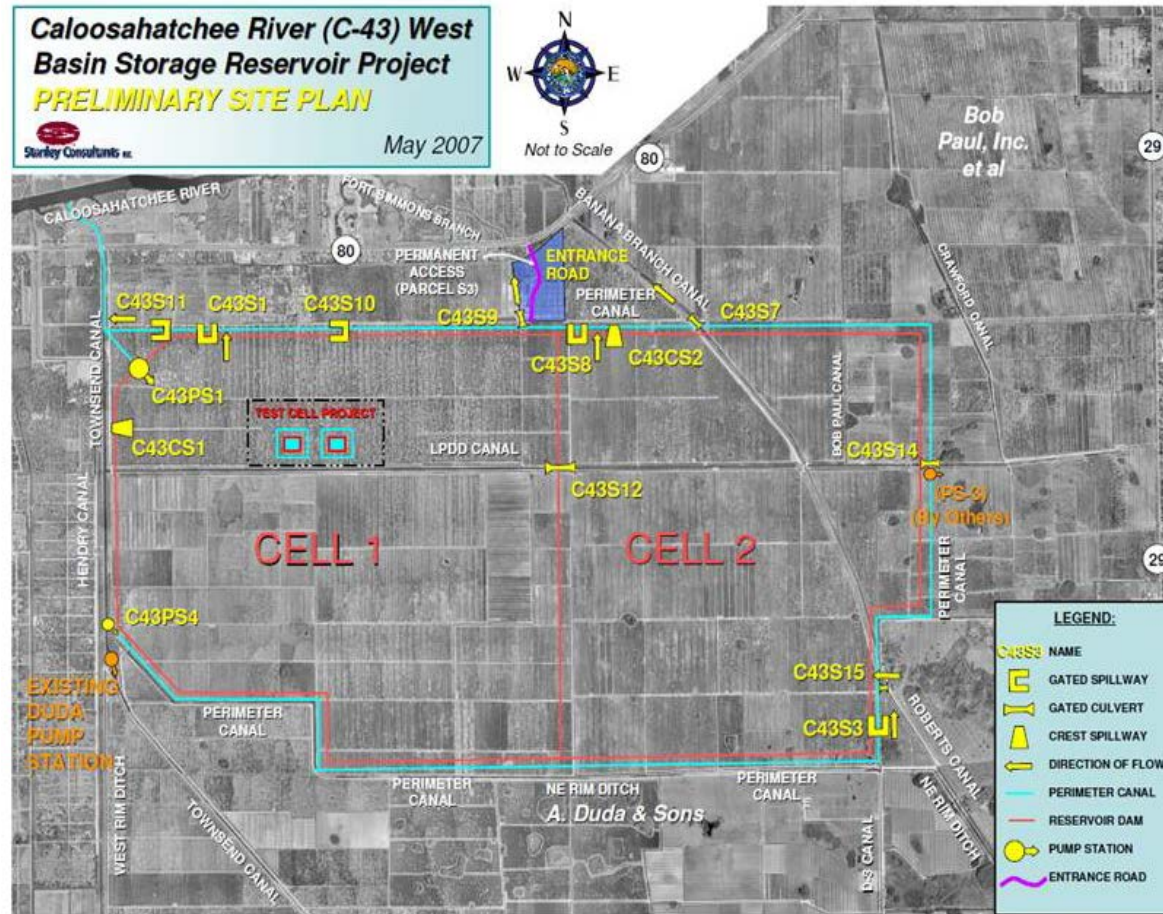


C-43 Project Location

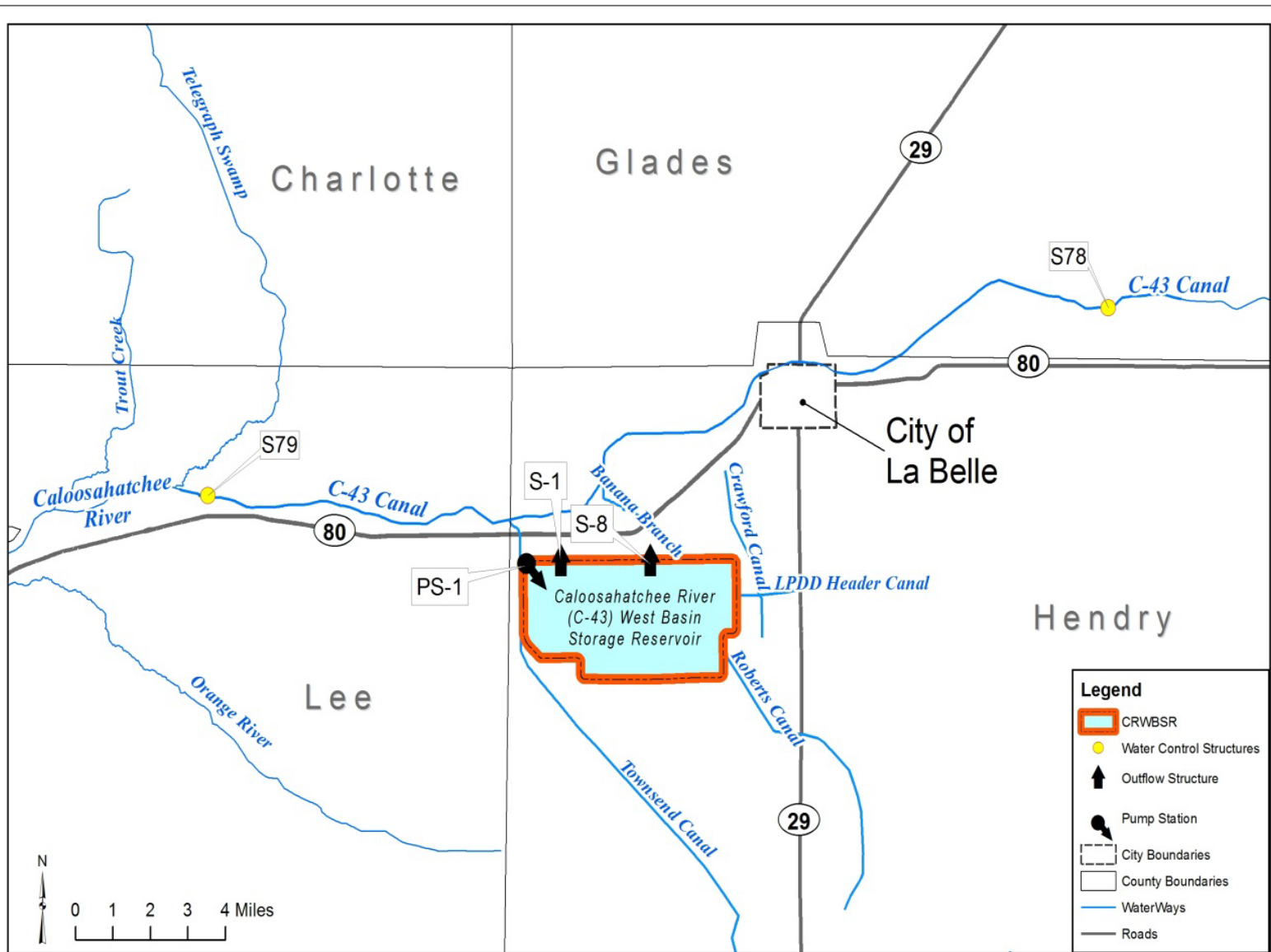


C-43 Project Features

- Project Size – 10,700 Ac
- Storage – 170,000 Ac-Ft
- Project Implementation Report Completed – Sept. 2007
- Chief's Report & Record of Decision – May 2011
- Awaiting Congressional Authorization



Protected Water Body



Summary of Public Comments:

- Need holistic process to identify water for full restoration of the estuary
- Need a broader reservation to protect fish & wildlife
- Use best available science to identify seasonal flows and benefits to estuary
- Allow adaptive management and periodic reviews of rule to address reservoir performance
- SERC should include impacts of algal blooms and ecosystem services



Summary of Public Comments:

- Revise figures in rule to clearly identify water bodies for reservation
- Remove rule language indicating existing legal uses are not contrary to the public interest
- Rule language should be added to prevent issuance of future water use permits before reservoir is operational
- Rule should state when quantities will be available and clarify timing with operational language





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Draft Rule Language

Beth Lewis

Office Chief

State Policy & Coordination Section

Draft Rule Components

- **Chapter 40E-10, F.A.C., Water Reservations**
 - Includes definitions
 - Identifies the reservation water body
 - Identifies water to be reserved
- **Rule 40E-2.091, F.A.C., Incorporation by Reference**
 - Addition to the Basis of Review/Applicant's Handbook
 - Contains specific implementation criteria for CUP review

Consistency Between PIR and Proposed Rule

The PIR states:

- “...all water made available by the project is provided to the natural system.”

Annex C, Section C.2.3, September 2007

Draft Rule Language states:

- “All surface water contained within and released via operation from the Caloosahatchee River (C-43) West Basin Storage Reservoir is reserved from allocation.”



Components of the Proposed Water Reservation Rules

- All surface water contained within and released, via operation, from the C-43 Reservoir is reserved
- Water reserved will be available for fish and wildlife upon a formal determination of the Governing Board, pursuant to state and federal regulations, that the C-43 Reservoir is operational
- The reservation shall be revised pursuant to Section 373.223(4), F. S. in light of changed conditions or new information
- Existing legal users for the duration of a permit existing on the rule adoption date are not contrary to the public interest





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**Water Reservation for the Caloosahatchee River
(C-43) West Basin Storage Reservoir**


**Statements of Estimated
Regulatory Costs (SERCs)**

Ian Miller
Lead Economist
Water Supply Bureau

SERCs – General Requirements

- Required for Agency Rulemaking activities (F.S. 120.541)
- SERC SCOPE → : Must include:
 - (a) An economic analysis showing whether the rule directly or indirectly is likely to have an adverse impact on: economic growth, private sector job creation or employment, private sector investment, business competitiveness, productivity or innovation, or increase regulatory costs (including any transactional costs),
 - (b) A good faith estimate of the number of individuals and entities
 - (c) A good faith estimate of the:
 - cost to the agency, and to any other state and local government entities
 - any anticipated effect on state or local revenues

SERCs – Requirements

- 
- (d) Estimate of the transactional costs necessary to comply with rule
 - (e) An analysis of the impact on small businesses and an analysis of the impact on small counties and small cities
 - (f) Any additional information that the agency determines may be useful
 - (g) In the statement or revised statement, whichever applies, a description of any regulatory alternatives
 - (3) If adverse impact or regulatory costs of the rule exceed \$ 1 M within 5 yrs post, the rule shall be submitted to the Florida legislature for ratification

What's Not Required by SERC

- Not in SCOPE → : A full benefit-cost analysis study considering lifecycle costs and tangible and intangible benefits over a 50 year planning horizon....however...

SERC – Findings

- Proposed rules do not impose any new regulatory burden or costs:
 - 1) No increased transactional costs (No new consumptive use permitting criteria, new permit analyses or water allocation restrictions).
 - 2) No increased agency related costs
 - 3) No cost impact on small businesses, counties or cities
 - 4) No Lower Cost Regulatory Alternative tendered yet. Effectively not an issue given findings.
- Additional SERC when Governing Board determines that C-43 Project is operational

SERC – Findings

- Water Reservation critical to C-43 CERP project authorization and funding process (Congressional Authorization and Appropriation)
 - C-43 Project included in WRDA
- (f) Benefits:
 - Short-term: Regional Economic Impact: Enables multi-year construction phase stimulus to Region
 - PIR → : \$318 million in total regional output
 - PIR → : 2,334 jobs (direct and indirect)
 - Long-term: capturing and reserving more water will contribute to sustaining natural resource assets of region necessary for sustainable recreation, tourism, economic growth, and quality of life





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Water Reservation for the CERP Caloosahatchee River (C-43) West Basin Storage Reservoir Project

Next Steps

Don Medellin

Principal Scientist

Coastal Ecosystems Section, Applied Sciences Bureau

Reservations Web Page

- Web page address

<http://www.sfwmd.gov/reservations>

CERP Caloosahatchee River (C-43) West Basin Storage Reservoir



Restoration of a healthy, productive Caloosahatchee Estuary is essential to maintaining the ecological integrity and associated economic benefits of this unique habitat on Florida's southwest coast. The Caloosahatchee River (C-43) West Basin Storage Reservoir is a 170,000 acre-foot aboveground reservoir called for as part of CERP. In December 2011, the SFWMD Governing Board directed agency staff to develop a water reservation rule that will identify and reserve water from consumptive use for the project and ensure that water is available to provide the intended benefits to the natural system.

WORKSHOP

Water Reservation Rule Development for the Caloosahatchee River (C-43) West Basin Storage Reservoir

Thursday, Jan. 23, 2014
10 a.m. to 12 p.m.

SFWMD Lower West Coast Service Center
2301 McGregor Boulevard
Fort Myers, FL 33901

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Supporting Documents



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Name	Size	File Type	Description
40E-10 Draft Rule Revision for Caloosahatchee (C-43)	118 KB	Adobe PDF	Caloosahatchee River (C-43) West Basin Storage Reservoir Water Reservation
40E-2 Draft Rule & BOR Revision for Caloosahatchee (C-43)	18 KB	Adobe PDF	Caloosahatchee River (C-43) West Basin Storage Reservoir Water Reservation
Draft Supporting Document for Caloosahatchee (C-43)	6.07 MB	Adobe PDF	
Final SERC for Caloosahatchee (C-43)	733 KB	Adobe PDF	
Just the Facts: Water Reservation for CERP Caloosahatchee River (C-43) West Basin Storage Reservoir	492 KB	Adobe PDF	
Workshop Final Agenda for Caloosahatchee (C-43), Jan. 23, 2014	10 KB	Adobe PDF	
Workshop Public Notice for Caloosahatchee River (C-43)	43 KB	Adobe PDF	Caloosahatchee River (C-43) West Basin Storage Reservoir Water Reservation

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Public Input

- SFWMD's web site provides information for your review: <http://www.sfwmd.gov/reservations>
 - *Draft rule language*
 - *Document to support the rule*
- Public comments are requested to be submitted by February 10, 2014
 - *Written comments to Jan Sluth, Office of Counsel-
sluth@sfwmd.gov*
 - *Comments can also be submitted to web board*



Next Steps

C-43 Reservation Activity	Date
Water Resources Advisory Commission Meeting	February 6, 2014
Governing Board Meeting - Notice of Proposed Rule	February 13, 2014
Request Review by Office of Fiscal Accountability and Regulatory Reform	February 2014
Publish Proposed Rule in Florida Administrative Register	February 2014
Rule Adoption/Public Hearing	April 10, 2014
Rule Becomes Effective 20 days after filing with Dep't of State	Anticipated June 2014

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January 23, 2014



Public Comments

**Water Reservation for the
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Basin Storage Reservoir**