

## MEMORANDUM

**TO:** Governing Board Members

**FROM:** Kenneth G. Ammon, P.E., Deputy Executive Director,  
Everglades Restoration and Capital Projects 

**DATE:** October 1, 2009

**SUBJECT:** Approval of 2010 Priority List and Schedule for Minimum Flows and Levels

### **Background:**

Florida law requires water management districts to provide an annual update to the Florida Department of Environmental Protection (FDEP) of priorities and schedules for Minimum Flows and Levels (MFLs) rule efforts. Florida law also requires all water management districts to establish MFLs by rule for surface water and aquifers within their jurisdiction to protect the water resources from significant harm. MFL criteria have been adopted for 12 water resources within the SFWMD with two more proposed (see Attachment A). In addition to MFLs, water reservations and restricted allocation areas are adopted by rule to provide additional protection to water resources.

A separate list setting forth areas where water reservations and restricted allocation area rules are proposed is also included (see Attachment B), at the request of FDEP. This attachment is provided to present a complete understanding of the rulemakings that the SFWMD proposes to undertake to protect water resources. Which legal tool to apply is dependent on a number of factors that vary by the water resource being protected and the type or degree of protection needed for the water resource. For example, an MFL is appropriate when potential threats from future allocations have been identified in water supply plans to avoid significant harm, while a reservation can apply to restoration projects to protect water necessary for fish and wildlife.

### **How this helps meet the District's 10-Year Strategic Plan:**

Completing rulemaking for the water resources listed in Attachment A will protect the natural system from significant harm, which is one of the Water Supply program's success indicators. Additionally, completing water reservation or restricted allocation area rulemaking will fulfill one of the federal legal requirements necessary for CERP projects to initiate construction. For example, the federal cost-sharing agreement called the Project Partnership Agreement for CERP's Indian River Lagoon-South Project can be approved once the North Fork of the St Lucie River water reservation rule becomes effective.

### **Funding Source:**

No funding is associated with this item.

**This Board item impacts what areas of the District, both resource areas and geography:**

Additional information will be developed on Estero and Rookery Bays to initiate MFL rule development in 2011 and/or 2012. Rule development will be initiated for restricted allocation area rules for Biscayne Bay in 2010. The focus for reservation rules in 2010 is the North Fork of the St Lucie River, Caloosahatchee Estuary, and Kissimmee River and Chain of Lakes. Staff from the Everglades Restoration and Capital Projects Resource Area will lead the rule development with support from the Office of Counsel.

**What concerns could this Board item raise?**

Some stakeholders may prefer different water resources listed as a priority on the MFL list. This is especially true for water resources that are no longer listed on the MFL Priority List such as Biscayne Bay. Portions of the Biscayne aquifer are already protected by an MFL, but additional protection measures will be needed due to the CERP Biscayne Bay Coastal Wetlands Project. Its water will most likely be protected through a Restricted Allocation Area rule, which is not part of the annual priority list for MFL. Other stakeholders will express support for the addition of the Caloosahatchee Estuary water reservation rule development, which is being added to fulfill federal legal requirements for CERP projects.

**Why should the Governing Board approve this item?**

The South Florida Water Management District is required by Section 373.042(2), Florida Statutes, to conduct an annual update of the Minimum Flows and Levels Priority List to reflect changing water resource management priorities and to provide staff guidance as to the Governing Board's priorities.

Attachments –

Resolution

2010 Priority List for Minimum Flows and Levels (Attachment A)

2010 Water Reservations and Restricted Allocation Areas Rule Development Activities (Attachment B)

KGA/bjm