

THE FULL TEXT OF THE PROPOSED RULE IS:

40E-10.011 Policy and Purpose

The purpose of this Chapter is to define the quantity, location and timing of waters reserved from allocation for the protection of fish and wildlife pursuant to Section 373.223(4), F.S., for specified water bodies. Water reservations are implemented in the water use program pursuant to Chapters 40E-2 and 40E-20, F.A.C.

Specific Authority: 373.044, 373.113, 373.171, F.S.

Laws Implemented 373.016, 373.026, 373.036, 373.1501, 373.1502, 373.219, 373.223, 373.4592, 373.4595, 373.470, F.S. History- New-

40E-10.021 Definitions

(1) **Fakahatchee Estuary** - The area within the Ten Thousand Islands region including the following river/bay systems, from west to east: Blackwater River/Blackwater Bay, Whitney River/Buttwood Bay, Pumpkin River/Pumpkin Bay, Wood River, Little Wood River and Faka Union Canal/Faka Union Bay, and Fakahatchee Bay as depicted in Figure 2 Fakahatchee Estuary.

(2) **Picayune Strand** – The area located southwest of the Florida Panther National Wildlife Refuge, north of the Ten Thousand Islands NWR, east of the South Belle Meade State Conservation and Recreation Lands (CARL) Project, west of the Fakahatchee Strand Preserve State Park, and northeast of Collier-Seminole State Park as depicted in Figure 1 Picayune Strand. The legal description of the Picayune Strand is contained in Appendix 1.

Specific Authority: 373.044, 373.113, 373.171, F.S.

Laws Implemented 373.016, 373.026, 373.036, 373.1501, 373.1502, 373.219, 373.223, 373.4592, 373.4595, 373.470, F.S. History- New-

40E-10.031 Water Reservations

(1) Applicants for consumptive use permits shall meet the requirements of this rule by providing reasonable assurances Rules 40E-2.301(1)(k) and 40E-20.301(1)(k), F.A.C., and Section 3.11 of the Basis of Review for Water Use Permit Applications within the South Florida Water Management District are met.

(2) Reservations contained in Rule 40E-10.041, F.A.C., shall be reviewed in light of changed conditions or new information by 2014.

Specific Authority: 373.044, 373.113, 373.171, F.S.

Laws Implemented 373.016, 373.026, 373.036, 373.1501, 373.1502, 373.219, 373.223, 373.4592, 373.4595, 373.470, F.S. History- New-

40E-10.041 Water Reservation Areas: Lower West Coast Planning Area

- (1) Picayune Strand as defined in Rule 40E-10.021(2), F.A.C.:
- (a) Surface waters:
1. All surface water contained within the Picayune Strand are reserved from allocation (see Figure 1).
 2. All surface water flowing into the Picayune Strand identified below is reserved from allocation:
 - i. The surface water flows depicted on Figures 3. A, B, and C, simulated at weir 'Miller2' within the Miller Canal (see Figure 1);
 - ii. The surface water flows depicted on Figures 4. A, B, and C, simulated at weir 'FU3' within the Faka Union Canal (see Figure 1); and
 - iii. The surface water flows depicted on Figures 5. A, B and C simulated at spillway 'Lucky LA' within the Merritt Canal (see Figure 1).
- (b) Groundwater: All groundwater in the water table and unconfined portions of Lower Tamiami aquifer underlying the Picayune Strand is reserved from allocation.

Notwithstanding the above, presently existing legal uses for the duration of the permit existing on [effective date] are determined to be not contrary to the public interest, pursuant to Section 373.223(4), F.S.

- (2) Fakahatchee Estuary as defined in Rule 40E-10.021(1), F.A.C.:
- (a) Surface waters:
- The surface water flows into the Fakahatchee Estuary identified below are reserved from allocation:
- i. The surface water flows depicted on Figures 6. A, B and C simulated at Faka Union Canal at structure FU1 (See Figure 2);
 - ii. The surface water flows depicted on Figures 7. A, B and C simulated at 'Miller@41' transect (beginning at coordinate

471365.13N, 599423.29 E Southeast to 479226.67N, 595105.77E (delivering surface water to Blackwater Bay and Buttonwood Bay) see Figure 2);

iii. The surface water flows depicted on Figures 8. A, B and C simulated at 'FU@41' transect (beginning at coordinate 480427.89N, 595005.67E Southeast to 487735.34N, 592478.09E (delivering surface water to Pumpkin Bay) see Figure 2);

iv. The surface water flows depicted on Figures 9. A, B and C simulated at 'Merritt@41' transect (beginning at coordinate 490942.49N, 593218.49E flowing Southeast to 499050.54N, 590515.81E (delivering surface water to Faka Union Bay) see Figure 2); and

v. The surface water flows depicted on Figures 10. A, B and C simulated at 'Fakahatchee@41' transect (beginning at coordinate 498623.81N, 587955.37E Southeast to 533587.95N, 575807.53E (delivering surface water to Fakahatchee Bay) see Figure 2).

(b) Groundwater: All groundwater in the water table and unconfined portions of Lower Tamiami aquifer underlying the Fakahatchee Estuary is reserved from allocation.

Notwithstanding the above, presently existing legal uses for the duration of the permit existing on [effective date] are determined to be not contrary to the public interest, pursuant to Section 373.223(4), F.S.

Specific Authority: 373.044, 373.113, 373.171, F.S.

Laws Implemented 373.016, 373.026, 373.036, 373.1501, 373.1502, 373.219, 373.223, 373.4592, 373.4595, 373.470, F.S. History- New-

APPENDIX 1 TO CHAPTER 40E-10

LEGAL DESCRIPTION OF PICAYUNE STRAND

AS DEFINED IN RULE 40E-10.021(1)

A tract of land in Townships 50, 51 and 52 South, Ranges 27 and 28 East, Collier County, Florida, more particularly described as follows:

Beginning at the Southeast Corner of Section 25, Township 51 South, Range 28 East, Collier County, Florida, run S 89°10'50" W, 2659.84 feet to the South Quarter Corner of said Section 25; thence S 89°09'41" W, 2659.37 feet to the Southwest Corner of said Section 25; thence S 00°19'11" W, 2611.61 feet to the East Quarter Corner of Section 35 of said Township 51 South, Range 28 East;
thence S 88°56'33" W, 2652.73 feet to the Northeast Corner of the Southwest Quarter of said Section 35; thence S 00°18'15" W, 2614.86 feet to the South Quarter Corner of said Section 35; thence S 88°54'23" W, 2650.59 feet to the Southwest Corner of Section 35; thence S 88°50'39" W, 2639.94 feet to the South Quarter Corner of Section 34 of said Township 51 South, Range 28 East;
thence S 89°00'23" W, 2652.66 feet to the Southwest Corner of said Section 34;
thence S 88°44'21" W along the north line of the Northeast Quarter of Section 4, Township 52 South, Range 28 East, 1450.32 feet to the Northeast Corner of those lands described in Official Record Book 2624, Page 2509, Public Records of Collier County, Florida; thence S 00°27'37" E along the east line of said lands, 6308.01 feet;
thence continuing along said east line, S 89°34'56" W, 16.37 feet;
thence continuing along said east line, S 00°25'04" E, 360.00 feet to the north right-of-way line of U.S. Highway 41; thence westerly along the north right-of-way line of U.S. Highway 41, S 84°52'54" W, 327.99 feet; thence N 05°07'06" W, 39.00 feet to a point on a non-tangent curve; thence westerly 900.69 feet along the arc of said curve, concave to the northeast, having a radius of 1835.08 feet, a central angle of 28°07'18" and a chord of 891.68 feet, bearing N 81°03'27" W;
thence S 23°00'12" W, 39.00 feet; thence N 66°59'48" W, 5570.19 feet to a point of curvature; thence northwesterly 800.00 feet along the arc of a curve, concave to the southwest, having a radius of 17224.80 feet, a central angle of 02°39'40" and a chord of 799.93 feet, bearing N 68°19'38" W to a point of tangency;

thence N 69°39'28" W, 6844.52 feet; thence N 20°20'32" E, 39.00 feet to a point on a non-tangent curve; thence northwesterly 671.08 feet along the arc of said curve, concave to the northeast, having a radius of 1835.08 feet, a central angle of 20°57'10" and a chord of 667.35 feet, bearing N 59°10'53" W; thence
S 41°17'43" W, 39.00 feet; thence N 48°42'17" W, 6815.31 feet to a point of curvature; thence northwesterly 442.16 feet along the arc of a curve, concave to the southwest, having a radius of 725.20 feet, a central angle of 34°56'02" and a chord of 435.35 feet, bearing N 66°10'19" W to a point of tangency; thence
N 83°38'20" W, 300.77 feet to the intersection of the north right-of-way line of U.S. Highway 41 with the west line of Section 36, Township 51 South, Range 27 East;
thence N 00°03'59" E along the west line of said Section 36, 1586.32 feet to the Northwest Corner of Section 36; thence N 01°15'40" W, 2658.40 feet, to the West Quarter Corner of Section 25 of said Township 51 South, Range 27 East;
thence N 01°17'06" W, 2656.42 feet to the Northwest Corner of said Section 25;
thence N 01°16'05" W, 2655.83 feet to the West Quarter Corner of Section 24 of said Township 51 South, Range 27 East; thence N 01°16'15" W, 2656.76 feet to the Northwest Corner of said Section 24; thence N 00°19'01" E, 2764.38 feet to the West Quarter Corner of Section 13 of said Township 51 South, Range 27 East; thence N 00°19'04" E, 2764.32 feet to the Northwest Corner of said Section 13; thence N 01°15'53" E, 2764.69 feet to the West Quarter Corner of Section 12 of said Township 51 South, Range 27 East; thence N 01°16'08" E, 2764.72 feet to the Northwest Corner of said Section 12; thence N 00°37'07" E, 2763.78 feet to the West Quarter Corner of Section 1 of said Township 51 South, Range 27 East; thence N 00°35'09" E, 2732.08 feet to the Northwest Corner of said Section 1; thence N 01°09'58" E, 2697.35 feet to the West Quarter Corner of Section 36 of Township 50 South, Range 27 East; thence N 01°14'25" E, 2554.73 feet to the Northwest Corner of said Section 36; thence N 00°49'11" E, 2618.76 feet to the West Quarter Corner of Section 25 of said Township 50 South, Range 27 East;
thence N 01°30'13" E, 2623.02 feet to the Northwest Corner of said Section 25;
thence N 01°14'51" E, 2643.78 feet to the West Quarter Corner of Section 24 of said Township 50 South, Range 27 East; thence N 00°55'45" E, 2647.27 feet to the Northwest Corner of said Section 24; thence N 89°04'28" W, 2655.08 feet to the South Quarter Corner of Section 14 of said Township 50 South, Range 27 East;
thence N 89°06'09" W, 2673.56 feet to the Southwest Corner of said Section 14;
thence N 01°20'52" E, 2642.45 feet to the West Quarter Corner of said Section 14;
thence N 01°02'27" E, 2638.34 feet to the Northwest Corner of said Section 14;

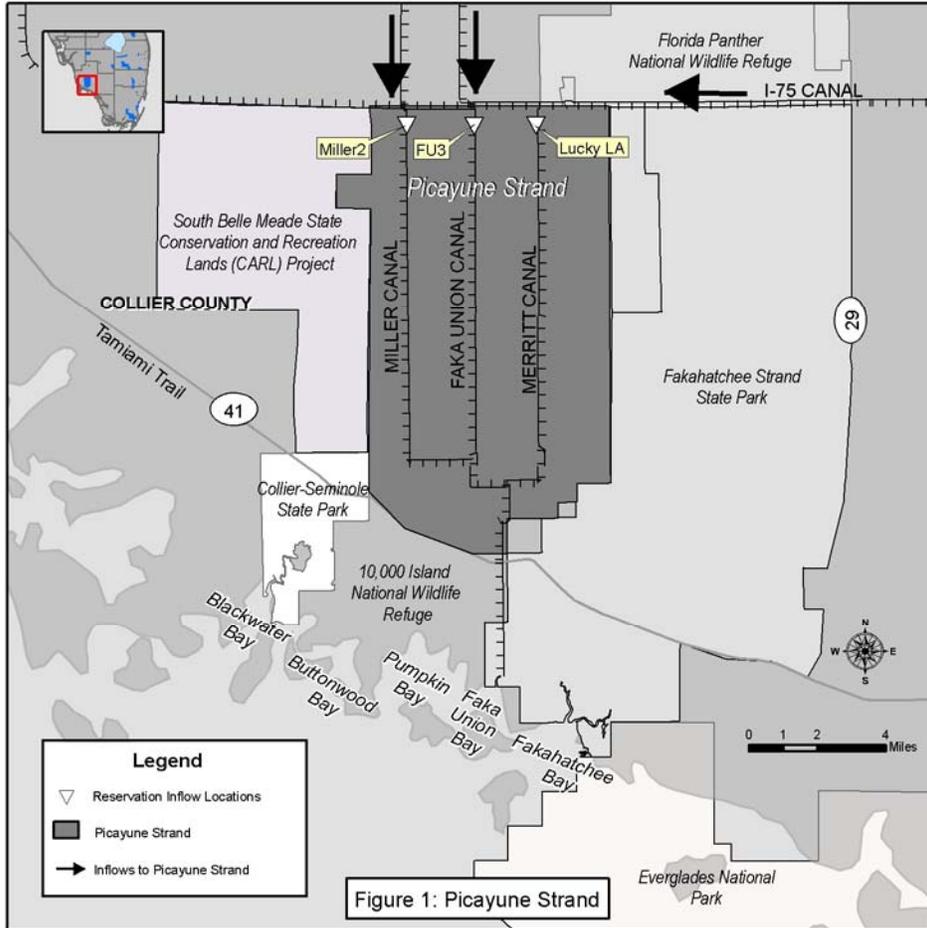
thence S 88°57'18" E, 2650.45 feet to the North Quarter Corner of said Section 14;
thence S 89°16'05" E, 2679.46 feet to the Northeast Corner of said Section 14; thence
N 00°32'07" E, 2629.53 feet to the West Quarter Corner of Section 12 of said
Township 50 South, Range 27 East; thence N 00°05'55" E, 2655.64 feet to the
Northwest Corner of said Section 12; thence N 00°35'20" E, 2638.33 feet to the West
Quarter Corner of Section 1 of said Township 50 South, Range 27 East; thence
N 09°11'51" W along the west line of the Northwest Quarter of said Section 1 a
distance of 2352.20 feet to the intersection with the south line of the south drainage
right-of-way of Interstate 75; thence easterly along said line, N 89°40'16" E, 2640.00
feet; thence S 88°14'35" E, 2676.02 feet;

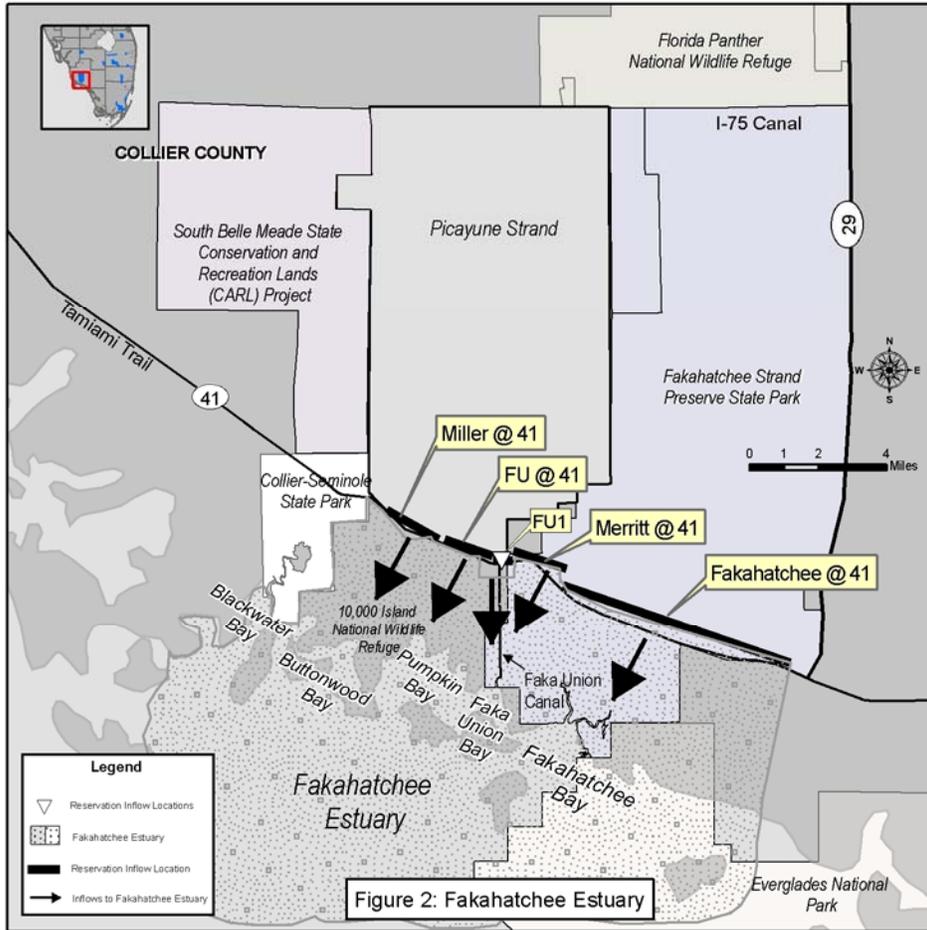
thence S 89°13'04" E, 2656.26 feet; thence N 89°51'50" E, 2650.84 feet;
thence N 89°28'53" E, 2647.15 feet; thence S 89°53'38" E, 2654.08 feet;
thence S 89°59'57" E, 2650.10 feet; thence N 89°51'03" E, 2650.97 feet;
thence S 89°32'18" E, 2648.17 feet; thence N 89°47'26" E, 2686.92 feet;
thence N 00°23'28" W, 124.56 feet; thence S 89°54'09" E, 2649.59 feet;
thence S 89°56'18" E, 2651.63 feet; thence N 89°41'16" E, 2652.50 feet;
thence S 89°49'15" E, 2651.54 feet to the intersection of the south line of said south
drainage right-of-way with the east line of Section 1, Township 50 South, Range 28
East; thence S 00°18'22" E along the east line of the Northeast Quarter of said
Section 1 a distance of 2460.78 feet to the East Quarter Corner of said Section 1;
thence S 00°18'26" E, 2663.16 feet to the Southeast Corner of said Section 1; thence
S 00°19'17" E, 2661.71 feet to the East Quarter Corner of Section 12 of said
Township 50 South, Range 28 East; thence S 00°18'47" E, 2661.88 feet to the
Southeast Corner of said Section 12; thence S 00°18'10" E, 2662.06 feet to the East
Quarter Corner of Section 13 of said Township 50 South, Range 28 East; thence S
00°18'16" E, 2662.13 feet to the Southeast Corner of said Section 13; thence S
00°18'16" E, 2662.14 feet to the East Quarter Corner of Section 24 of said Township
50 South, Range 28 East; thence S 00°17'28" E, 2661.81 feet to the Southeast Corner
of said Section 24; thence S 00°17'38" E, 2674.16 feet to the East Quarter Corner of
Section 25 of said Township 50 South, Range 28 East; thence S 00°10'00" E,
2674.56 feet to the Southeast Corner of said Section 25; thence S 00°13'47" E,
2674.47 feet to the East Quarter Corner of Section 36 of said Township 50 South,
Range 28 East; thence S 00°13'47" E, 2674.49 feet to the Southeast Corner of said
Section 36; thence S 00°51'18" E, 2682.32 feet to the East Quarter Corner of Section
1 of Township 51 South, Range 28 East; thence S 00°51'18" E, 2682.32 feet to the
Southeast Corner of said Section 1; thence S 00°28'26" W, 2596.09 feet to the East

Quarter Corner of Section 12 of said Township 51 South, Range 28 East; thence S 00°41'47" W, 2598.68 feet to the Southeast Corner of said Section 12; thence southerly along the east line of Section 13, Township 51 South, Range 28 East, S 00°35'55" W, 5191.01 feet to the Southeast Corner of said Section 13; thence S 00°36'41" W, 2596.95 feet to the East Quarter Corner of Section 24 of said Township 51 South, Range 28 East; thence S 00°34'08" W, 2597.43 feet to the Southeast Corner of said Section 24; thence S 00°33'57" W, 2596.90 feet to the East Quarter Corner of Section 25 of said Township 51 South, Range 28 East; thence S 00°34'27" W, 2597.76 feet to the Southeast Corner of said Section 25 and the Point of Beginning.

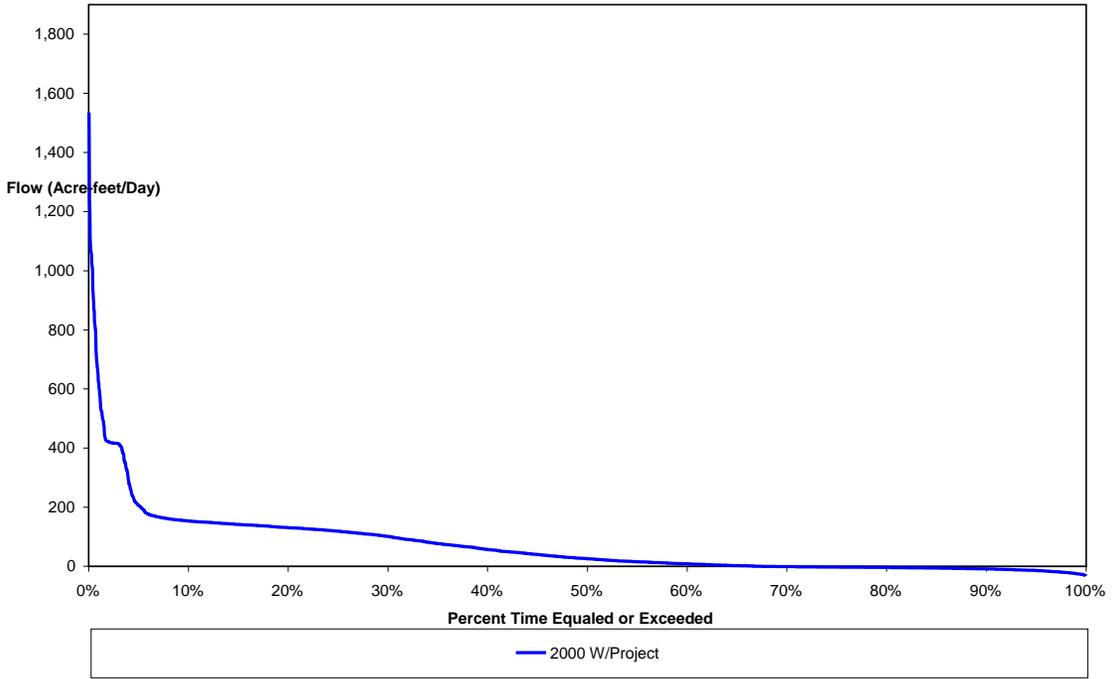
APPENDIX 2 TO CHAPTER 40E-10

Figures





**Figure 3.A. Simulated Surface Water Inflow From Miller Canal Near I-75
Volume Probability Curve - 1988 Through 2000**



**Figure 3.B. Simulated Surface Water Inflow From Miller Canal Near I-75
Volume Probability Curve - Wet Season (June 1 - Oct 31)**

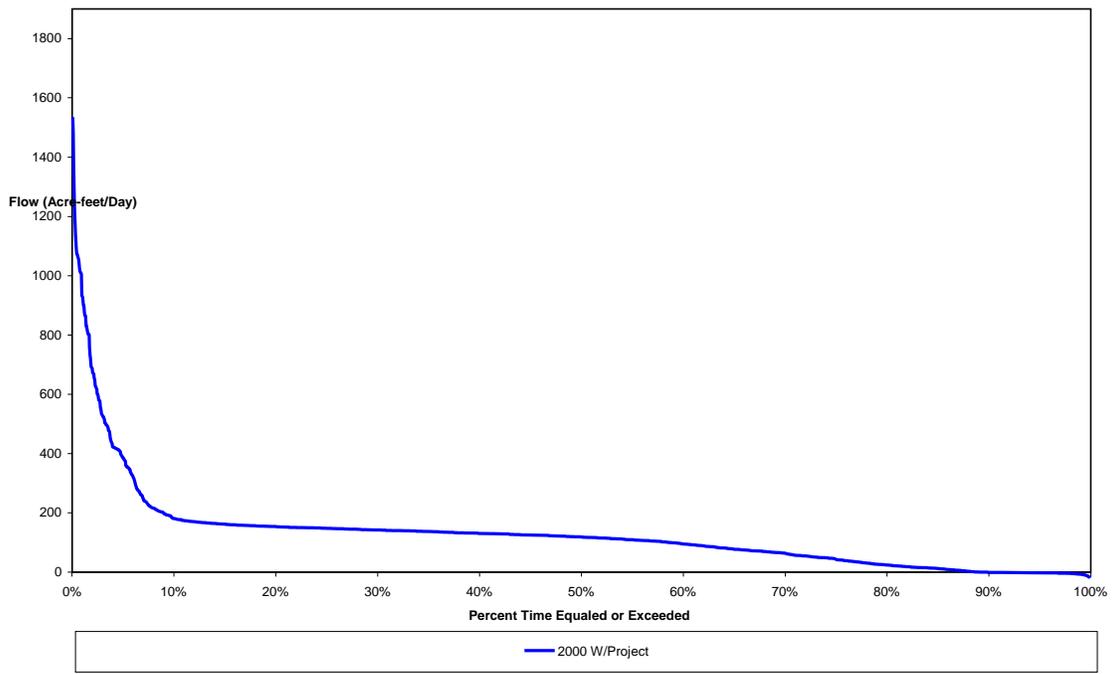


Figure 3.C. Simulated Surface Water Inflow From Miller Canal Near I-75
Volume Probability Curve - Dry Season (Nov 1 - May 31)

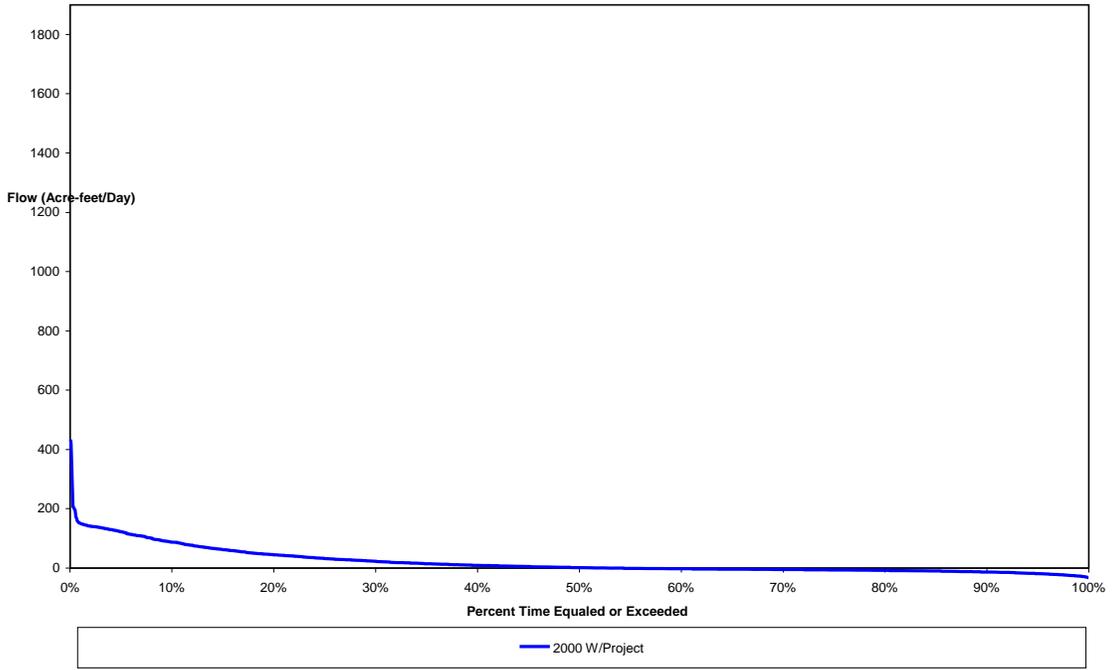


Figure 4.A. Simulated Surface Water Inflow From Faka Union Canal Near I-75
Volume Probability Curve - 1988 Through 2000

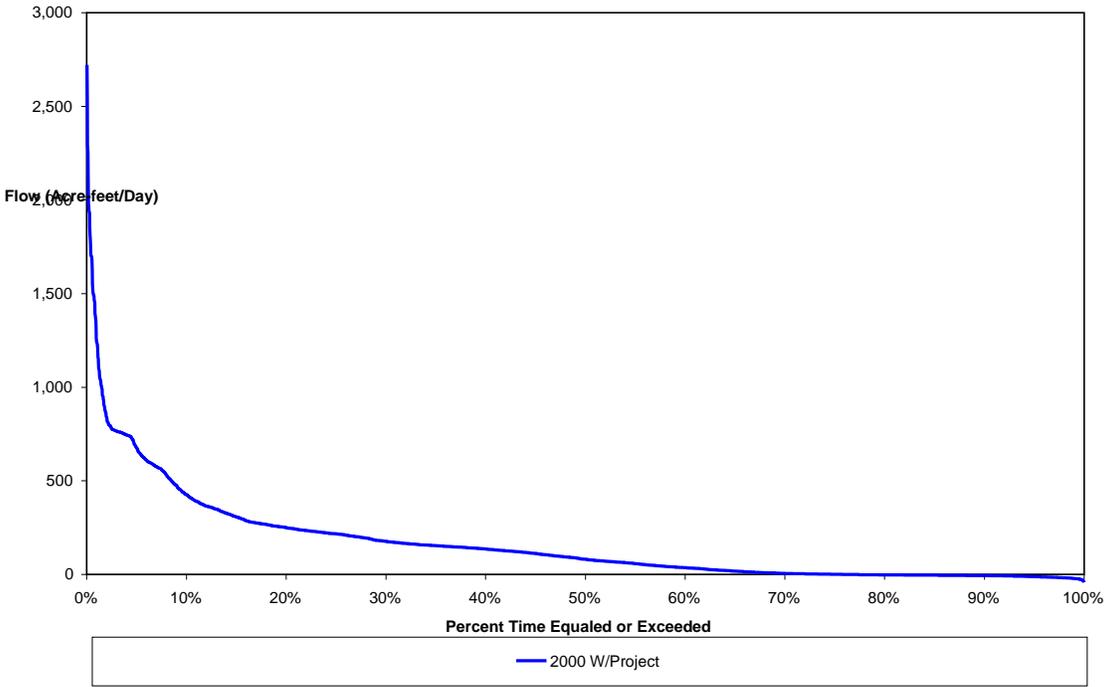


Figure 4.B. Simulated Surface Water Inflow From Faka Union Canal Near I-75
Volume Probability Curve - Wet Season (June 1-Oct 31)

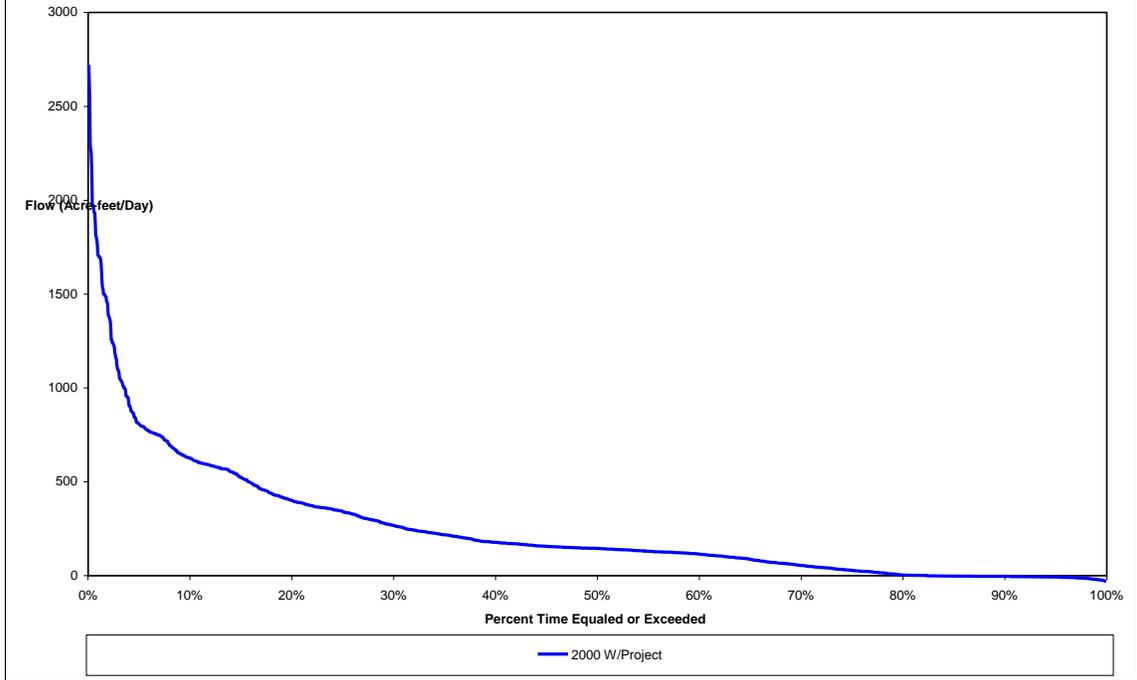
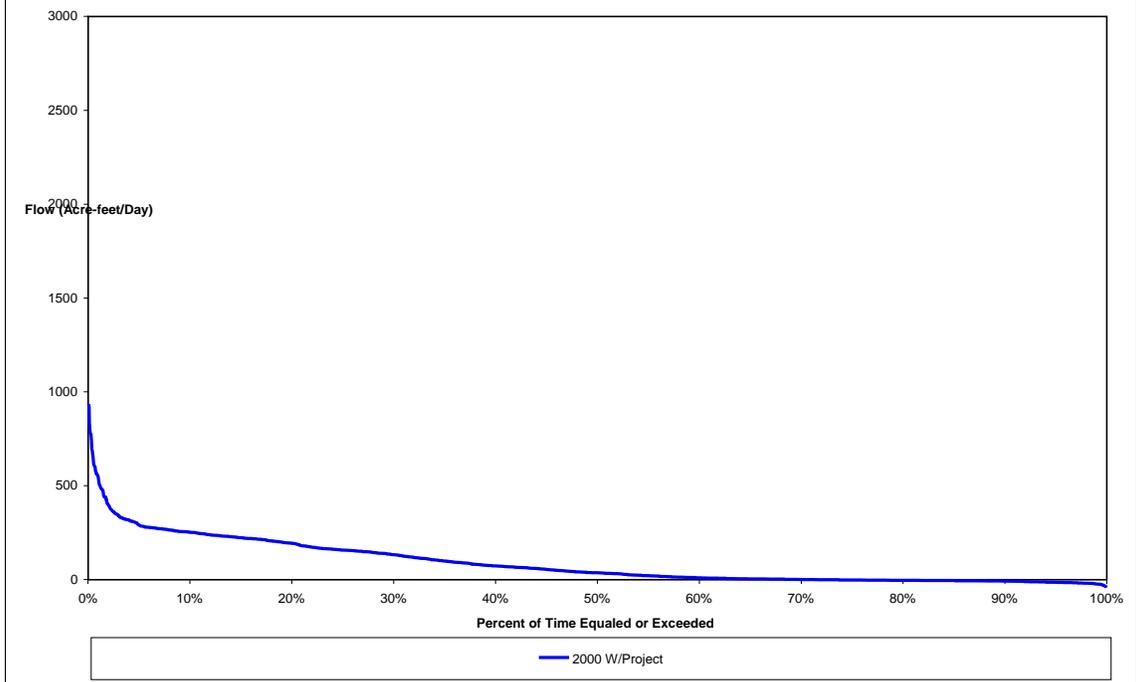
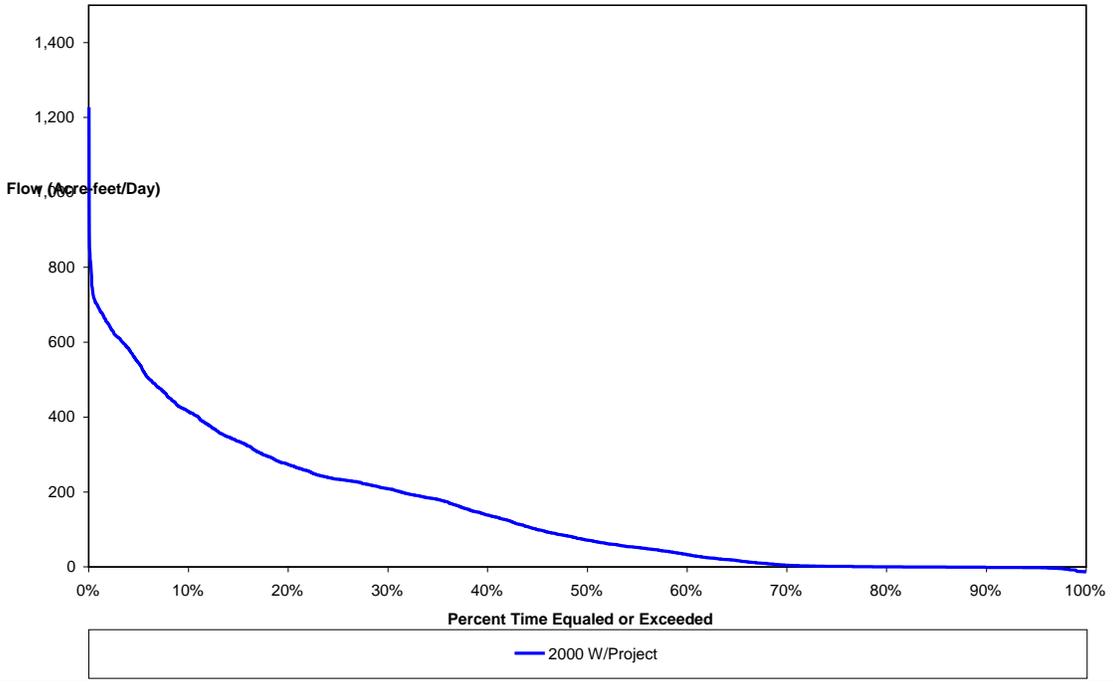


Figure 4.C. Simulated Surface Water Inflow From Faka Union Canal Near I-75
Volume Probability Curve - Dry Season (Nov 1 - May 31)



**Figure 5.A. Simulated Surface Water Inflow From Merritt Canal Near I-75
Volume Probability Curve - 1988 Through 2000**



**Figure 5.B. Simulated Surface Water Inflow From Merritt Canal Near I-75
Volume Probability Curve - Wet Season (June 1 - Oct 31)**

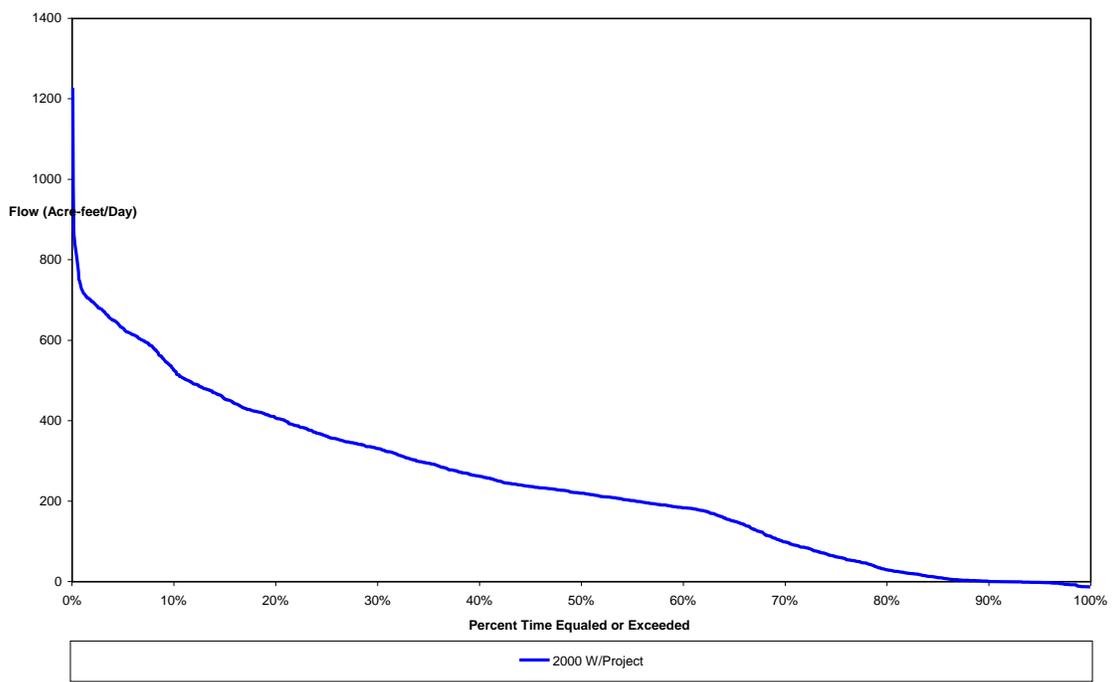


Figure 5.C. Simulated Surface Water Inflow From Merritt Canal Near I-75
Volume Probability Curve - Dry Season (Nov 1 - May 31)

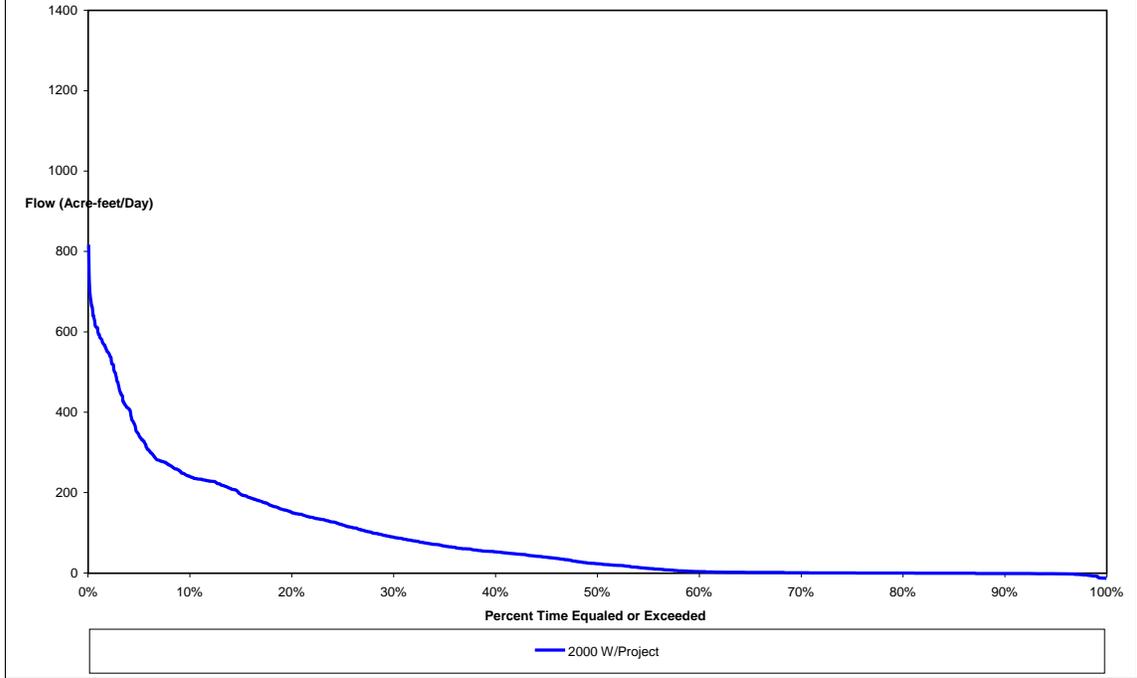


Figure 6.A. Simulated Surface Water Deliveries to Faka Union Bay From Faka Union FU#1 Near US 41 Volume Probability Curve – 1988 Through 2000

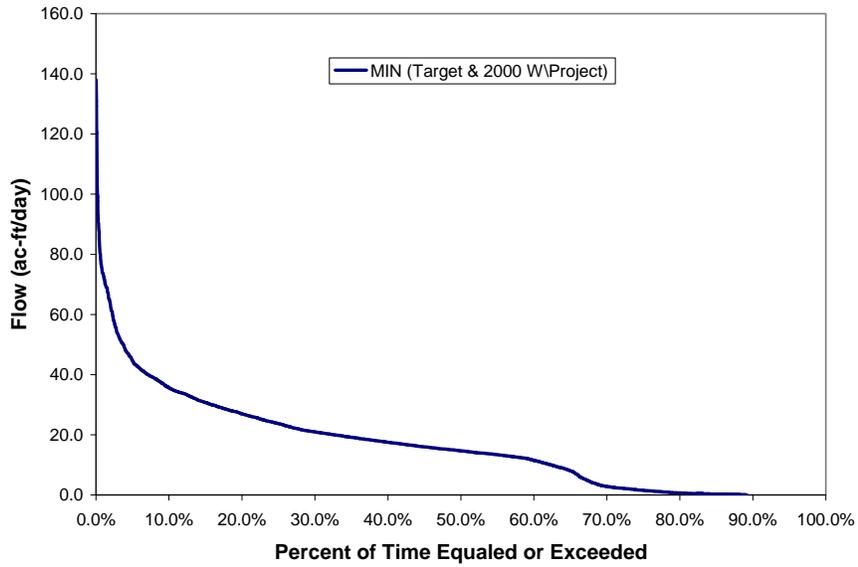
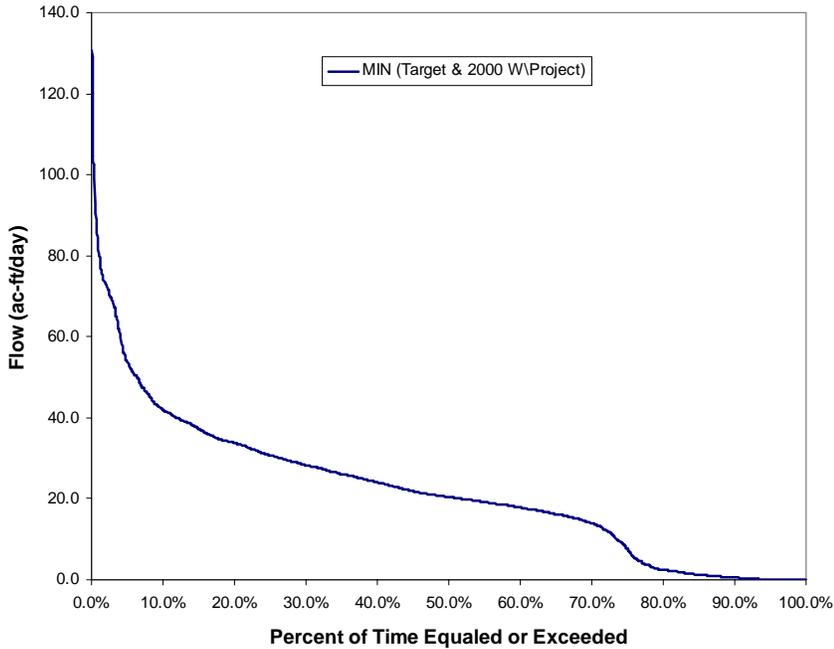
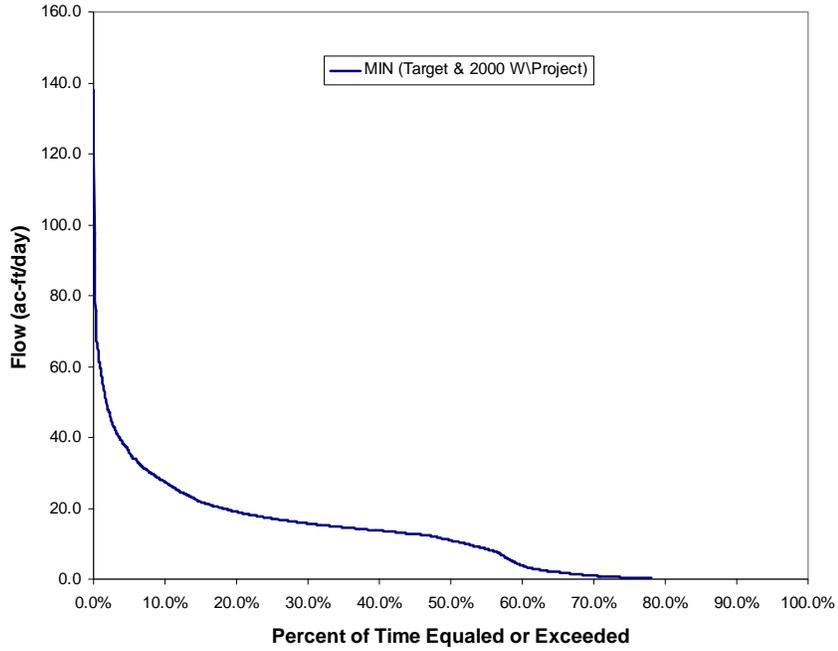


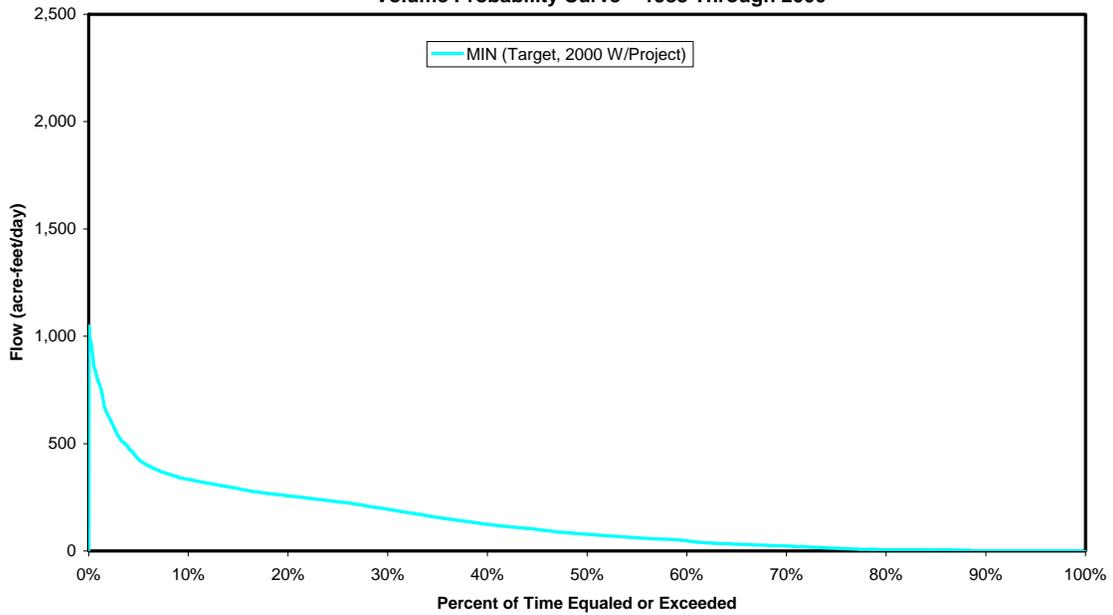
Figure 6.B. Simulated Surface Water Deliveries to Faka Union Bay from Faka Union FU#1 Near US 41 Wet Season Volume Probability Curve – (June 1 - Oct 31)



**Figure 6.C. Simulated Surface Water Deliveries to Faka Union Bay from
Faka Union FU#1 Near US 41
Dry Season Volume Probability Curve (Nov 1- May 31)**



**Figure 7.A. Simulated Surface Water Deliveries to Blackwater Bay and Buttonwood Bay from Miller Canal Flowway Near US 41
Volume Probability Curve – 1988 Through 2000**



**Figure 7.B. Simulated Surface Water Deliveries to Blackwater Bay and Buttonwood Bay from Miller Canal Flowway Near US 41
Wet Season Volume Probability Curve (June 1 - Oct 31)**

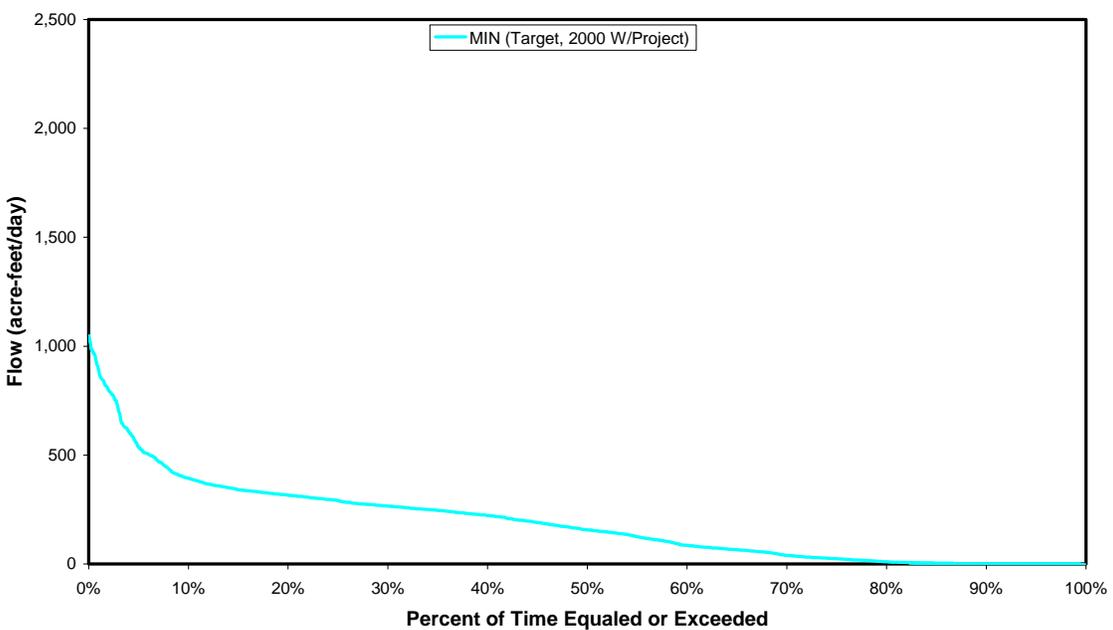
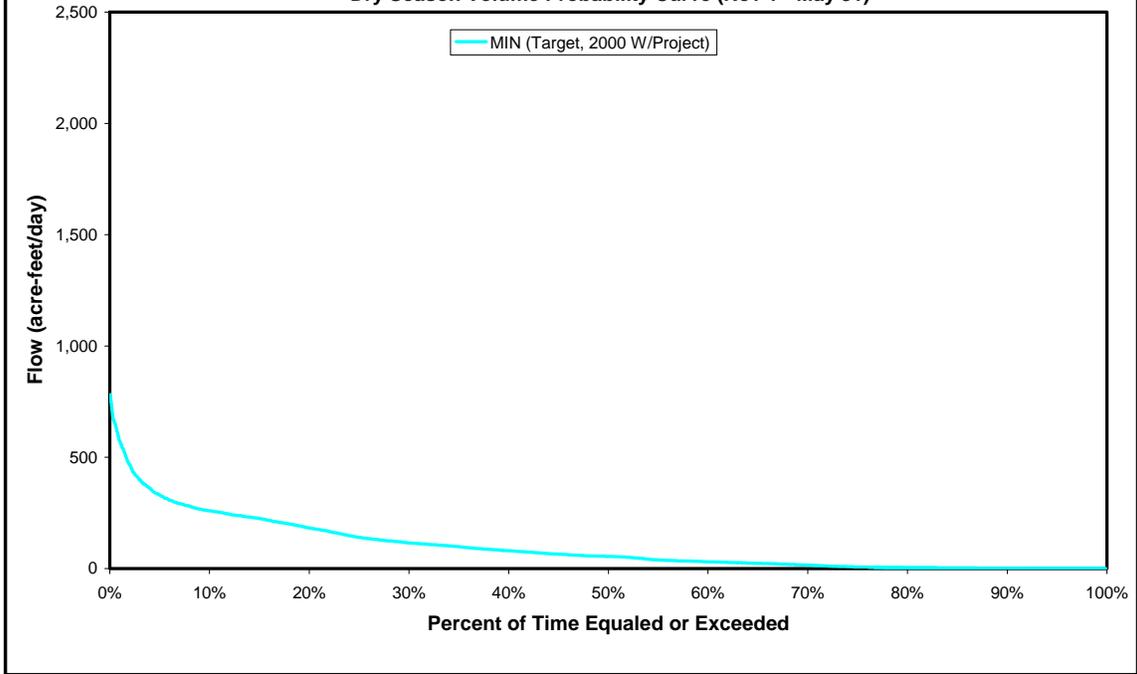
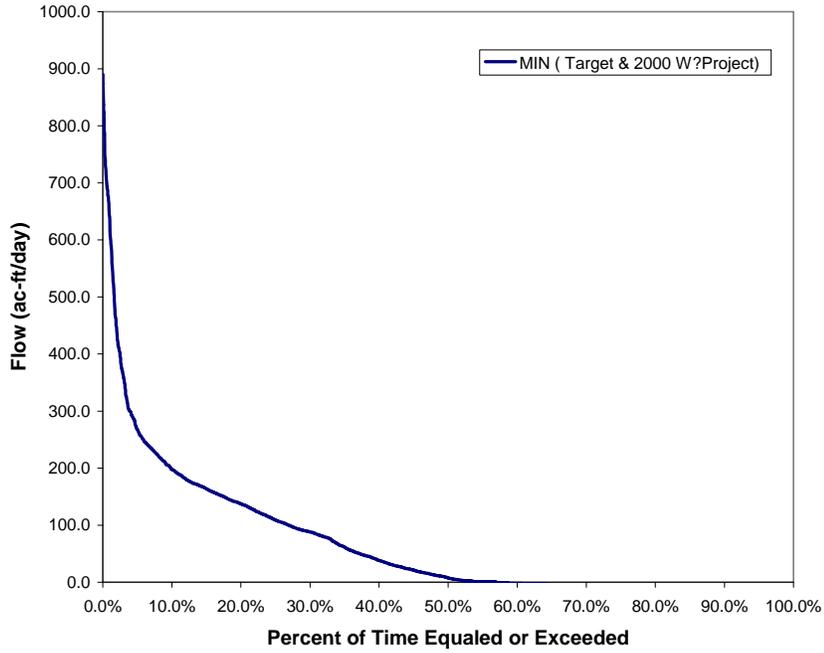


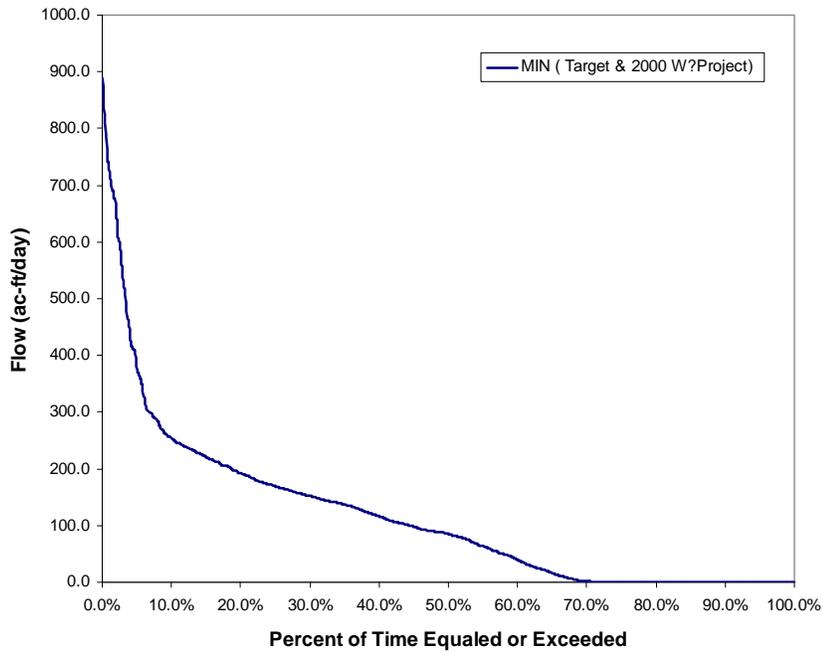
Figure 7.C. Simulated Surface Water Deliveries to Blackwater Bay and Buttonwood Bay From Miller Canal Flowway Near US 41
Dry Season Volume Probability Curve (Nov 1 - May 31)



**Figure 8. A. Simulated Surface Water Deliveries to Pumpkin Bay From Faka Union Flowway Near US 41
Volume Probability Curve – 1988 Through 2000**



**Figure 8.B. Simulated Surface Water Deliveries to Pumpkin Bay from Faka Union Flowway Near US 41
Wet Season Volume Probability Curve (June 1 - Oct 31)**



**Figure 8.C. Simulated Surface Water Deliveries to Pumpkin Bay from Faka Union Flowway Near US 41
Dry Season Volume Probability Curve (Nov1 - May 31)**

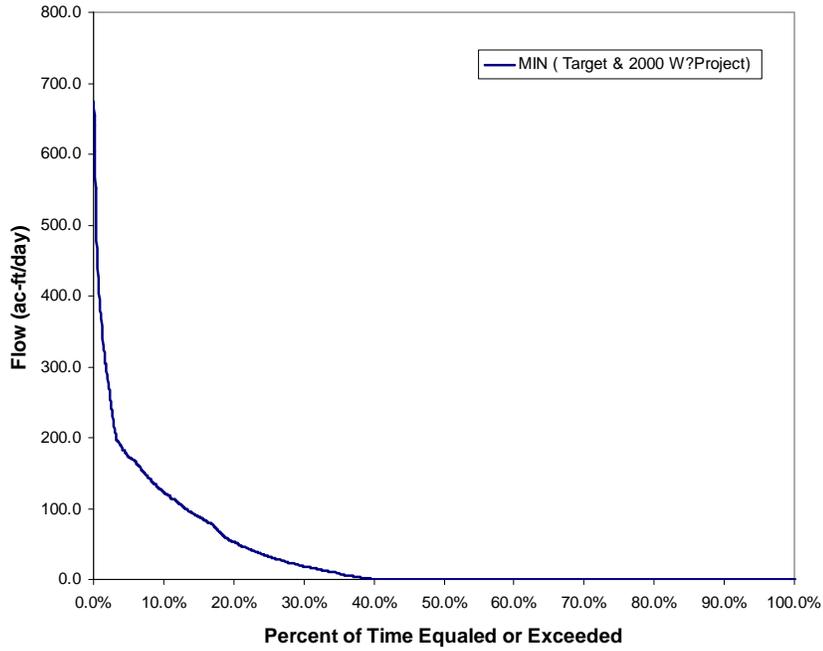
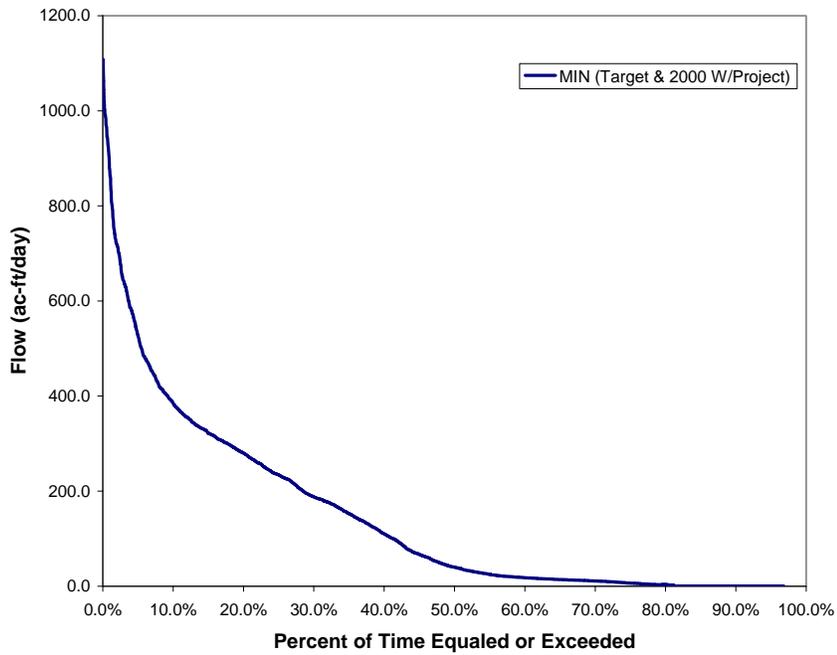
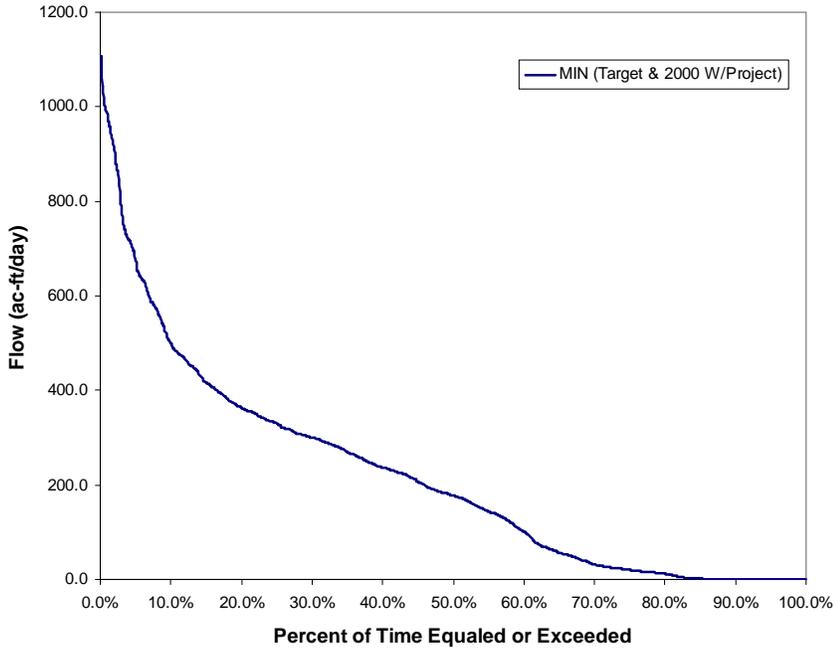


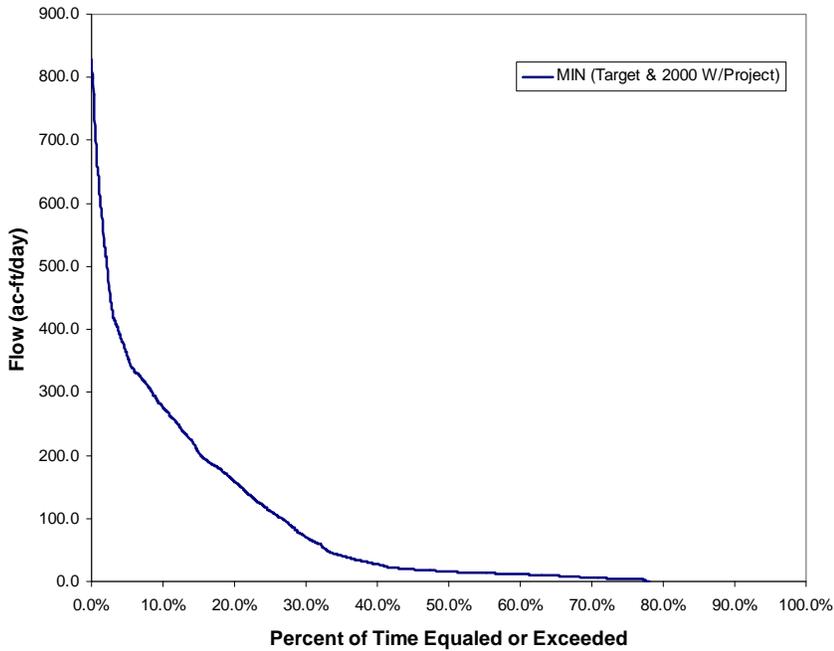
Figure 9.A. Simulated Surface Water Deliveries to Faka Union Bay From Merritt Canal Flowway Near US41 Volume Probability Curve – 1988 Through 2000



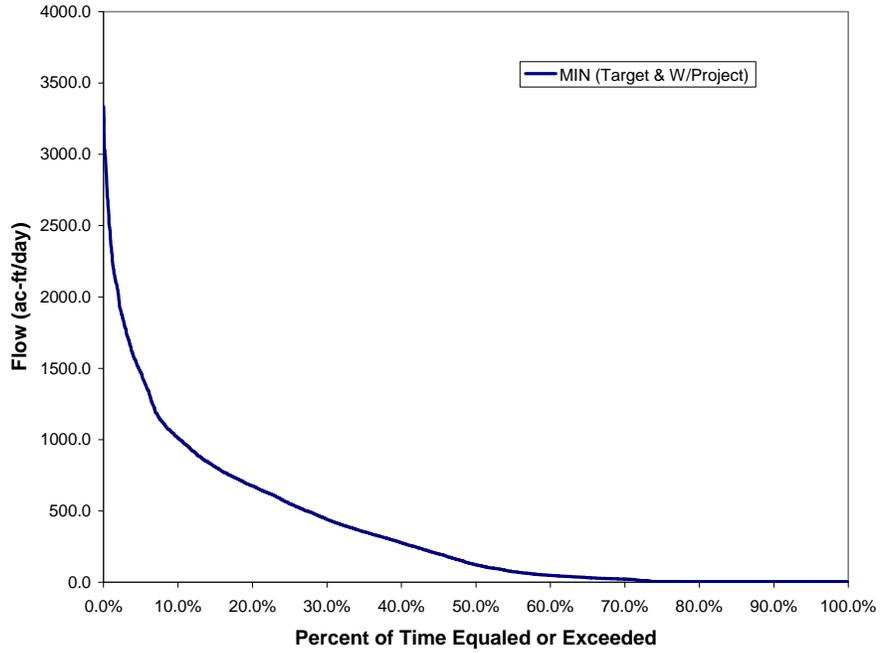
**Figure 9.B. Simulated Surface Water Deliveries to Faka Union Bay from Merritt Canal Flowway Near US41
Wet Season Volume Probability Curve (June 1- Oct 31)**



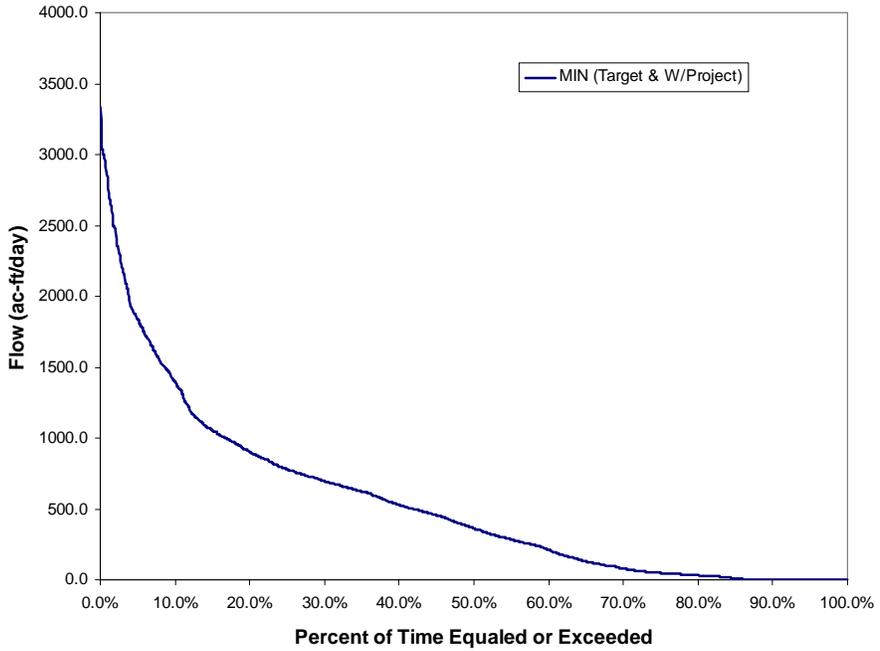
**Figure 9.C. Simulated Surface Water Deliveries to Faka Union Bay from Merritt Canal Flowway Near US41
Dry Season Volume Probability Curve (Nov 1 - May 31)**



**Figure 10.A. Simulated Surface Water Deliveries to Fakahatchee Bay From Fakahatchee Strand
Volume Probability Curve – 1988 Through 2000**



**Figure 10. B. Simulated Surface Water Deliveries to Fakahatchee Bay from Fakahatchee Strand
Wet Season Volume Probability Curve (June 1- Oct 31)**



**Figure 10.C. Simulated Surface Water Deliveries to Fakahatchee Bay from Fakahatchee Strand
Dry Season Volume Probability Curve (Nov 1 - May 31)**

