

1 DRAFT 5/21/08
2 Rule Development Process
3 Proposed Section 3.2.1(GF) Basis of Review for Water Use Permit Applications
4 within the SFWMD

5 Section 3.2.1

6 (G) The following restrictions shall apply when allocating surface water derived
7 from the Lake Okeechobee Waterbody for consumptive use within the
8 Lake Okeechobee Basin as defined in Section 1.7.3. This rule is a
9 component of the recovery strategy for minimum flows and levels for Lake
10 Okeechobee, as set forth in Chapter 40E-8, F.A.C., to address lower lake
11 management levels and storage under the U. S. Army Corps of Engineers'
12 interim Lake Okeechobee Regulation Schedule (LORS), adopted to
13 protect the public health and safety (April 28, 2008). Compliance with this
14 rule along with the other criteria contained in the Basis of Review
15 implements the objectives of the District to protect the public health and
16 safety, to prevent interference among legal users of Lake water, to be
17 consistent with the MFL recovery strategy as defined in Rule 40E-8.421,
18 F.A.C., and to ensure that water necessary for Everglades restoration is
19 not allocated for consumptive use.

20 (1) The rule applies to applications for new projects, modifications to
21 existing projects, and permit renewals for existing projects located within
22 the Lake Okeechobee Basin as described in Section 1.7.3, that propose to
23 use surface water from the "Lake Okeechobee Waterbody," defined as:

- 24 (a) Lake Okeechobee as identified in Rule 40E-8.021(12); or
- 25 (b) Integrated conveyance systems that are hydraulically
26 connected to and receive water from Lake Okeechobee such as the
27 Caloosahatchee River, the St Lucie Canal, or secondary canal
28 systems that receive Lake Okeechobee water for water supply
29 purposes via gravity flow or by pump.

30 This section does not apply to groundwater withdrawals such as
31 withdrawals from wells, mining, and dewatering, or to projects that request

1 to use a volume of water from the Lake Okeechobee Waterbody below the
2 threshold contained in Rule 40E-20.302(1)(a).

3 (2) Except as otherwise provided in this section, an applicant must
4 demonstrate the requested allocation will not cause a net increase in the volume
5 of surface water withdrawn from the Lake Okeechobee Waterbody over the
6 "base condition water use" as defined in (a) through (d), below but in no case
7 shall exceed the withdrawal authorized to the applicant as of January 1, 2008
8 October 29, 2008. In determining the base condition water use, pursuant to
9 subsections (a) through (d) below, the District shall consider and allow
10 adjustments if the applicant demonstrates that such use is not representative of
11 normal operations due to unanticipated conditions affecting the actual quantity of
12 water withdrawn, such as extreme climatic conditions or equipment failure.

13 (a) Public Water Supply Use Class: the maximum quantity of
14 water withdrawn by the applicant from the Lake Okeechobee
15 Waterbody during any consecutive twelve month period between
16 April 1, 2001 and January 1, 2008 October 29, 2008. If a permit
17 allocation existing on January 1, 2008 October 29, 2008 contains
18 an allocation based on a conversion of a water treatment system,
19 the base condition water use shall be increased to account for
20 treatment losses of the new treatment plant as if the treatment
21 system was operational during the above stated time interval;

22 (b) Irrigation Use Class: the quantity of water calculated using
23 Section 2.3 and 3.9.1 to meet demands for:

24 (i) The maximum number of acres actively irrigated by the
25 applicant from April 1, 2001 and January 1, 2008 October
26 29, 2008. When determining the numbers of acres actively
27 irrigated, data regarding historic crop plantings will be
28 evaluated however short term reductions in historic plantings
29 caused by disease or poor market conditions are not to be
30 used in determining the actively irrigated acreage; or

1 (ii) If the irrigation project, or a portion thereof, has been
2 authorized but not yet constructed pursuant to the conditions
3 of a surface water management construction or
4 environmental resource permit or authorization existing on
5 January 1, 2008 October 29, 2008, the base condition water
6 use will be calculated based on the number of acres and
7 crop type identified in the environmental resource and water
8 use permit or authorization in place as of January 1, 2008
9 October 29, 2008;

10 (c) Diversion and Impoundment Use Class: the demands of the
11 applicant calculated pursuant to Section 2.7.2 for the physical
12 conditions of the diversion and impoundment system as of January
13 1, 2008 October 29, 2008. In situations where historic uses were
14 supplied by the diversion and impoundment project but not
15 expressly identified or incorporated in the diversion and
16 impoundment permit, the base case condition water use will be as
17 calculated to include the historic demands served by the diversion
18 and impoundment project between April 1, 2001 and January 1,
19 2008 October 29, 2008.

20 (d) Other Use Classes: the maximum quantities of water
21 withdrawn by the applicant (annual and maximum month) between
22 April 1, 2001 and January 1, 2008 October 29, 2008.

23 (3) Applicants shall provide reasonable assurances that the proposed
24 use will not increase the base condition water use from the Lake
25 Okeechobee Waterbody. Demonstration that the proposed use will not
26 increase the base condition water use is provided when the following
27 criteria are met on a project scale:

1 (a) Permit Renewals: The requested volume for permit renewal is
2 no greater than the project's base condition water use calculated
3 pursuant to Paragraph (2) above.

4 (b) Modifications that Reduce the Base Condition Water Use: The
5 requested modification results in a reduction in the project's base
6 condition water use. Examples of modifications that could result in
7 a reduction in the project's base condition water use include a
8 reduction in irrigated acreage or change in crop type or irrigation
9 efficiency that lowers water demands. The applicant will be
10 required to calculate the reduction in the project's base condition
11 water use associated with the requested modification.

12 (c) Except for those uses as identified in (4) as an incompatible
13 use, allocations above the project's base condition water use as
14 identified in (2) above will be provided from the following sources:

15 (i) Certified Project Water. Water provided from an
16 operational water resource development project, as defined
17 in Section 373.019(22), Florida Statutes, that has been
18 certified by the Governing Board for allocation to
19 consumptive uses, as defined in Section 1.8;

20 (ii) Lake Okeechobee Waterbody Withdrawals Offset by
21 Alternative Sources. An alternative source of water that is
22 demonstrated to replace the volume, including timing, of
23 water proposed to be withdrawn from the Lake Okeechobee
24 Waterbody over the base condition water use. Examples of
25 offsets include recharge provided by reclaimed water applied
26 to provide recharge to the Waterbody in equal or greater
27 amounts than the proposed increase over the base condition
28 water use;

29 (iii) Alternative Water Supply. Water provided from a source
30 not restricted under this section such as groundwater,
31 reclaimed wastewater or stored stormwater; or

1 (iv) Terminated or Reduced Base Condition Water Use:
2 Water made available through the termination or reduction of
3 other base condition water uses after January 1, 2008,
4 unless the Governing Board determines that such retired or
5 reduced base condition water use is demonstrated to
6 significantly improve the performance of an MFL waterbody
7 under recovery in terms of shortening the frequency or
8 duration of projected MFL violations or significantly improve
9 the performance of meeting a restoration target as defined in
10 an approved District restoration plan or project.

11 (4) Incompatible Use Type: Requested allocations for new
12 public water supply uses that exceed the thresholds in Rule 40E-
13 20.302 (1) (a) or increases in existing uses above the project's
14 base condition water use calculated pursuant to Paragraph (2)(a),
15 above, shall not be permitted from the Lake Okeechobee
16 Waterbody. Temporary requested increases over the project's
17 base condition water use from the Lake Okeechobee Waterbody
18 may be granted to accommodate increased demands during a
19 reasonable time period while alternative sources are constructed.
20 The duration of the temporary increase shall be determined based
21 on a construction schedule for the alternative source implemented
22 with due diligence.