MEMORANDUM

TO: Governing Board Members

FROM: Chip Merriam, Deputy Executive Director, Water Resources

DATE: July 13, 2006

SUBJECT: Authorize publication of the Notice of Rulemaking in the Florida Administrative Weekly (FAW) to amend Rule 40E-4.091, F.A.C., and Section 4.3.2 of the Basis of Review for Environmental Resource Permit Applications, to incorporate the Uniform Mitigation Assessment Method (UMAM) pursuant to Rule 62-345, F.A.C., for applications received on or after February 2, 2004

Recommendation

Staff recommends approval of the Notice of Rulemaking to amend the Basis of Review for Environmental Resource Permit Applications, to incorporate the Uniform Mitigation Assessment Method (UMAM) pursuant to Rule 62-345, F.A.C., for applications received on or after February 2, 2004.

Background

In 2003, the State of Florida adopted the Uniform Mitigation Assessment Method (UMAM) under Rule 62-345, F.A.C. This rule became effective on February 2, 2004 and required all state and local agencies to utilize the UMAM method when calculating wetland mitigation requirements for development projects. Since that time the District has been utilizing the UMAM method as required by Rule 62-345 F.A.C.; however, the District's rules do not currently reference the state rule. The purpose of this proposed rule development is to reference Rule 62.345 F.A.C.

Staff Contact: **Anita Bain, Director, Natural Resource Management Division**
(561) 682-6866

Susan Martin, Sr. Specialist Attorney, Office of Counsel
(561) 682-6251

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:
40E-4.091 Publications, Rules and Interagency Agreements Incorporated by Reference.

(1) The following publications, rules and interagency agreements are incorporated by reference into this chapter, Chapters 40E-40, 40E-41 and 40E-400, F.A.C.:

(a) "Basis of Review for Environmental Resource Permit Applications within the South Florida Water Management District – _____~~2-12-06"~~.

(b) through (k) No Change.

(2) No Change.

Specific Authority 373.044, 373.113, 373.171, 373.413, FS. Law Implemented 373.413, 373.4135, 373.414, 373.4142, 373.416, 373.418, 373.421, 373.426, FS. History–New 9-3-81, Amended 1-31-82, 12-1-82, Formerly 16K-4.035(1), Amended 5-1-86, 7-1-86, 3-24-87, 4-14-87, 4-21-88, 11-21-89, 11-15-92, 1-23-94, 4-20-94, 10-3-95, 1-7-97, 12-3-98, 5-28-00,8-16-00, 1-17-01, 7-19-01, 6-26-02, 6 -26-02, 4 -6-03, 4-14-03, 9-16-03, 12-7-04,2-23-06 _____.

(The following represents proposed changes to the document entitled "Basis of Review for Environmental Resource Permit Applications within the South Florida Water Management District - 2-12-06" incorporated by reference in Rule 40E-4.091, F.A.C.)

4.3.2 Mitigation Ratio Guidelines

a. For applications received on or after February 2, 2004, except as provided in Rule 62-345, F.A.C., Sections 4.3.2 - 4.3.2.4 are superseded by Rule 62-345, F.A.C.

b. Subsections 4.3.2 - 4.3.2.4 establish ratios for the acreage of mitigation required compared to the acreage which is adversely impacted by regulated activities. Ranges of ratios are provided below for certain specific types of mitigation, including creation, restoration, enhancement and preservation. Mitigation ratios for wetlands which have a 50% or greater coverage of melaleuca (Melaleuca quinquenervia), will be determined pursuant to subsection 4.3.2.4. and other provisions of this section. The difference between the ranges of ratios provided for mitigation types is based on the degree of improvement in ecological value expected from each type. Creation and restoration are assigned the lowest range of ratios as these activities, when successfully conducted, add new wetlands or other surface waters which provide the same or similar functions as the area being adversely impacted. The range of ratios established for enhancement is higher than that for creation and restoration, as the area being enhanced currently provides a degree of the desired functions, and this type of mitigation serves to increase, rather than create, those functions. Preservation differs from the other types of mitigation in that it does not serve to improve the existing ecological value of an area in the short term. However, preservation does provide benefits as it can ensure that the values of the preserved area are protected and maintained in the long term, particularly when these values are not fully protected under existing regulatory programs. Therefore, the range of ratios established for preservation is higher than those for other types of mitigation. These ratios are provided as guidelines for preliminary planning

purposes only. The actual ratio needed to offset adverse impacts may be higher or lower based on a consideration of the factors listed in subsections 4.3.2.1 through 4.3.2.4. For example, in instances where the proposed system results in only a small loss of ecological value in the impacted area, such as cases involving impacts to areas of low ecological value or cases where the proposed system results in a small reduction of ecological value of the impacted area, then the actual mitigation ratio would normally be in the lower end of or below the range. For other types of mitigation, ratios will be determined based upon the reduction in quality and relative value of the functions of the areas adversely impacted as compared to the expected improvement in quality and value of the functions of the mitigation area.