

Peer-Review Options for Minimum Flows and Levels and Reservations in the Central Florida Water Initiative Area

Prepared for the
CFWI Steering Committee Meeting
by the
Minimum Flows and Levels & Reservations Technical Team

May 18, 2012
Kissimmee, Florida



Presentation Outline

- CFWI schedule
- Peer-review requirements and practices
- Peer review component options
- Selection of peer-review options

CFWI Schedule

Technical Collaborative Team	Key Components	Start	End
Minimum Flows and Levels and Reservations	Evaluate current peer review process of each WMD in order to develop options for a standard procedure to peer review MFLs and Reservations within the CFWI (C4a) and peer review the methods developed under C3 if appropriate (C4b)	June 22, 2011 (C4a) February 28, 2012 (C4b)	Jan 31, 2012 (C4a) March 31, 2013 (C4b)

Peer-Review Requirements and Practices for MFLs and Reservations

MFLs

- Statutes – required if requested by an affected party
- Rules – (silent)
- Practice – routinely completed, approaches differ among Districts

Reservations

- Statutes – (silent)
- Rules – voluntary
- Practice – approaches differ among Districts

Important Statutory Information

“Independent scientific peer review” means the review of scientific data, theories, and methodologies by a panel of independent, recognized experts in the fields of hydrology, hydrogeology, limnology, and other scientific disciplines relevant to the matters being reviewed under s. 373.042.

Section 373.019(11), Florida Statutes

The department or the governing board shall give **significant weight** to the final report of the peer review panel when establishing the minimum flow or level.

Section 373.042(4)(b), Florida Statutes

Other Important Considerations



- All identified options are consistent with the State Government-in-the-Sunshine Law
- All options are consistent with Chapter 373, F.S. and Rule 62-40, F.A.C.
- All options are applicable to peer-review of MFLs and reservations

Options for Peer-Review Components

Components	Option A	Option B	Option C
Voluntary vs. Requested Peer Review	✓	✓	✓
Reviewer Selection	✓	✓	
Public Involvement	✓		
Scope of Work	✓		
Reviewer Independence and Reporting Requirements	✓	✓	✓
Governing Board Presentations	✓		

Options for Voluntary vs. Requested Peer Review

Component - Costs & Risk -	Option A	Option B	Option C
Voluntary vs. Requested Peer Review	Voluntarily peer review all proposed MFLs and reservations	Voluntarily peer review selected proposed MFLs and reservations	Conduct peer review only when requested by a substantially affected person
- Budgeted Costs -	High	Moderate	Low
- Time Costs -	High	Moderate	Low
- Risk-	Low	Moderate	High

Options for Reviewer Selection

Component - Costs & Risk -	Option A	Option B
Reviewer Selection	District and stakeholder	District
- Budgeted Costs -	Moderate*	Low
- Time Costs -	Moderate*	Low
- Risk-	Low	Moderate

Option for Public Involvement

Component - Costs & Risk -	Option A
Public Involvement	Web page Public workshops and/or teleconferences
- Budgeted Costs -	Moderate
- Time Costs -	Moderate
- Risk-	Low

Option for Scope of Work

Component - Costs & Risk -	Option A
Scope of Work	Standard scope of work
- Budgeted Costs -	Low
- Time Costs -	Low
- Risk-	Low

Options for Reviewer Independence and Reporting Requirements

Component - Costs & Risk -	Option A	Option B	Option C
Reviewer Independence and Reporting Requirements	<p>Work collaboratively only at publicly noticed workshops/teleconferences</p> <p>Separate field-trip for each panelist</p> <p>Consensus report</p>	<p>Same as Option A</p> <p>Single publicly noticed field trip for all panelists</p> <p>Consensus report</p>	<p>Work collaboratively at publicly noticed workshops/teleconferences and independently</p> <p>Same as Option A</p> <p>Independent reports collated by panel chair</p>
- Budgeted Costs -	High*	High*	Moderate
- Time Costs -	Moderate	High*	Moderate
- Risk-	Low	Low	High

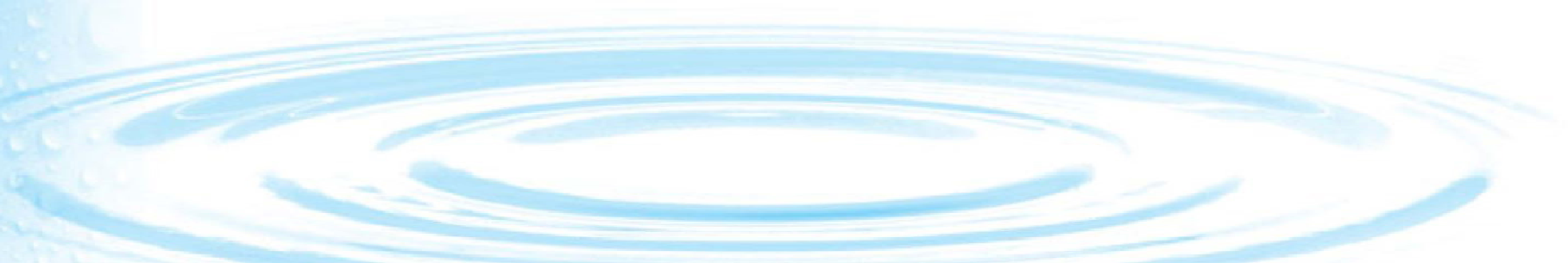
Option for Governing Board Presentations

Component - Costs & Risk -	Option A
Governing Board Presentations	Two presentations
- Budgeted Costs -	Low
- Time Costs -	Low
- Risk-	Low

Selection of Peer Review Option Components

Components	Option A	Option B	Option C
Voluntary vs. Requested Peer Review	✓	✓	✓
Reviewer Selection	✓	✓	
Public Involvement	✓		
Scope of Work	✓		
Reviewer Independence and Reporting Requirements	✓	✓	✓
Governing Board Presentations	✓		

EXTRA SLIDES



Minimum Flows and Levels & Reservations

The **minimum flow** for a given watercourse shall be the limit at which further withdrawals would be significantly harmful to the water resources or ecology of the area.

The **minimum water level** shall be the level of groundwater in an aquifer and the level of surface water at which further withdrawals would be significantly harmful to the water resources of the area.

Section 373.042(1), Florida Statutes

The governing board or the department, by regulation, may **reserve from use** by permit applicants, water in such locations and quantities, and for such seasons of the year, as in its judgment may be required for the protection of fish and wildlife or the public health and safety.

Section 373.223(4), Florida Statutes

Peer Review of Minimum Flows and Levels

Upon written request to the department or governing board by a substantially affected person, **or by decision of the department or governing board**, prior to the establishment of a minimum flow or level and prior to the filing of any petition for administrative hearing related to the minimum flow or level, all scientific or technical data, methodologies, and models, including all scientific and technical assumptions employed in each model, used to establish a minimum flow or level shall be subject to independent scientific peer review.

Section 373.042(4)(a), Florida Statutes

Peer Review of Reservations

The District shall conduct an independent scientific peer review of all scientific or technical data, methodologies, and models, including all scientific and technical assumptions employed in each model, used to establish a reservation **if the District determines such a review is needed**. As part of its determination of the necessity of conducting a peer review, the District **shall consider whether a substantially affected person has requested** such a review.

Rule 62-40.474(4), Florida Administrative Code

Draft Memorandum on Peer-Review Options for Minimum Flows and Levels & Reservations

MEMORANDUM

Options for a Standard Peer Review Process within the Central Florida Water Initiative Area for MFLs and Water Reservations

PREPARED FOR: Technical Oversight Committee

COPY TO: Data Monitoring and Investigations, Environmental Measures, Groundwater Availability and Hydrologic Analysis Teams

PREPARED BY: MFLs and Reservations Team

DATE: January 31, 2012 (Revised March 12, 2012)

This memorandum outlines options for ensuring consistent implementation of peer review processes for minimum flows and levels (MFLs) and Water Reservations by all three water management districts in the Central Florida Water Initiative (CFWI) area. It is anticipated that options for methodologies that will be used to establish MFLs and reservations within the CFWI area will be subjected to the peer-review process options identified in this memorandum that are selected by the CFWI Steering Committee.

The legal definition for independent scientific peer review can be found in Attachment 1. Legal requirements concerning independent scientific peer-reviews related to MFLs and Water Reservations can be found in Attachments 2 through 4. Findings of peer review panels are summarized in a final report which a Governing Board must give "significant weight" when establishing MFLs (Section 373.042(4)(b), F.S.).

The South Florida, Southwest Florida, and St. Johns River Water Management Districts have implemented various approaches to address the legal and regulatory requirements for peer review of MFLs or reservations within their respective boundaries (see Attachments 5 through 8). Each District currently uses a voluntary process for review of proposed MFLs or reservations, although peer-review requested by a substantially affected person has been completed in at least one District.

Options for peer-review process attributes identified by the MFLs and Reservations Technical Team (the Team) are summarized in Table 1 and discussed in the remainder of this memorandum. It should be noted that options identified in this memorandum may be considered applicable to the peer review of both MFLs and reservations.

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