

Conditions for Issuance – Offsite Land Uses – September 30, 2016

Conditions for Issuance	SJRWMD	SFWMD	SWFWMD	CFWI Uniform Rule
<p>(f) Will not cause harm to existing offsite land uses resulting from hydrologic alterations</p>	<p>2.3(f) The use must not cause harm to existing off-site land uses resulting from hydrologic alterations. A proposed use will be denied as not reasonable-beneficial if the use would cause adverse flooding or lower the water table or surface water level and cause an unmitigated adverse impact on an existing off-site land use.</p> <p>Adverse impacts to existing off-site land uses are exemplified by, but not limited to:</p> <ol style="list-style-type: none"> <li>1. Significant reduction in water levels in a surface water body;</li> <li>2. Significant potential for land collapse or subsidence caused by a reduction in water levels;</li> <li>3. Damage to crops, wetlands, or other types of vegetation; and</li> <li>4. Adverse flooding.</li> </ol> <p>Methods for avoiding harm include: reducing the amount of water withdrawn, modifying the method or schedule of withdrawal, mitigating the damages caused, or not increasing the potential for flooding. An applicant may accept adverse flooding impacts on land owned by the applicant or land for which the applicant has demonstrated sufficient legal authority to accept such flooding impacts. In all cases, it is the applicant's responsibility to mitigate adverse impacts caused by the use, including wetland impacts and impacts on off-site land uses which existed at the time of permit application. Under Section 2.3(g)4. below, an applicant must also avoid or mitigate impacts to wetlands or other surface waters wherever they are located.</p>	<p><b>3.6 Existing Offsite Land Uses</b></p> <p><b>3.6.1 General Considerations</b> Pursuant to paragraph 40E-2.301(1)(b), F.A.C., an applicant must demonstrate that the proposed withdrawal will not cause harm to offsite land uses, as defined in this Section. This Section does not establish a property right in water; but prohibits harm from a consumptive use withdrawal to certain land uses that are dependent upon water being on or under the land surface based on the considerations set forth below.</p> <p><b>3.6.2 Specific Considerations</b> Whether a particular offsite land use is considered under this Section depends on whether there is a reasonable expectation that water will continue to exist on or under the land surface. When determining whether there is a reasonable expectation in the occurrence of water for a particular offsite land use, the District will consider: 1) the historic natural and artificial hydrologic variations on the property; 2) the purpose and nature of the water or water source, such as surface water management or water quality treatment; and 3) the practicability of protecting the land use without supplementation (for example, restricting consumptive uses from impacting water levels in a cow pond versus supplementing water levels in the cow pond with another water source). This Section is not intended to protect wetlands and other surface waters, which are protected against harm pursuant to paragraph 40E-2.301(1)(c), F.A.C., and Section 3.3.</p> <p>Only land uses that existed prior to the initiation of the consumptive use are protected under this Section. When a permit modification is considered under this Section, only the land use existing at that time of the pending application is considered. The responsibility to mitigate for harm to an offsite land use only extends to offsite land uses that predate the request for modification and only applies to harm projected to occur due to the requested modification. For</p>	<p><b>3.6 EXISTING OFFSITE LAND USES.</b> <i>Reserved.</i></p> <p><b>5.1 STANDARD CONDITIONS.</b> The following conditions are placed on all WUPs:</p> <p>(1) The Permittee shall mitigate any adverse impact to environmental features or offsite land uses as a result of withdrawals. When adverse impacts occur or are imminent, the District shall require the Permittee to mitigate the impacts. Examples of adverse impacts include the following:</p> <ol style="list-style-type: none"> <li>1. Significant reduction in levels or flows in water bodies such as lakes, impoundments, wetlands, springs, streams, or other watercourses;</li> <li>2. Damage to crops and other vegetation causing financial harm to the owner; or</li> <li>3. Damage to the habitat of endangered or threatened species.</li> </ol>	<p><b>3.6 Existing Offsite Land Uses</b></p> <p><b>3.6.1 General Considerations</b> Pursuant to paragraph 62-41.301(2)(f), F.A.C., an applicant must demonstrate that the proposed consumptive use will not cause harm to existing offsite land uses, as defined in this Section. This Section does not establish a property right in water, but prohibits harm from a consumptive use to certain land uses that are dependent upon water being on or under the land surface.</p> <p>In addition, for consumptives uses of water associated with dewatering, an applicant must demonstrate that the proposed consumptive use will not cause harm to existing offsite land uses as a result of the discharge of water associated with dewatering activities, as defined in this Section.</p> <p><b>3.6.2 Specific Considerations</b> Whether an existing offsite land use is considered under this Section depends on whether there is a reasonable expectation that water will continue to exist on or under the land surface to support that offsite land use. When determining whether there is a reasonable expectation in the occurrence of water for an existing offsite land use, the District will consider: 1) only those offsite land uses existing at the time of the application; 2) the historic natural and artificial hydrologic variations on the offsite property; 3) the historic use and design function of the offsite property; 4) the purpose and nature of the water or water source on the offsite property, such as surface water management or water quality treatment; and 5) hydrologic variations that have occurred or are expected to occur as a result of authorized consumptive use withdrawals.</p> <p>In order to be considered under this rule, the impact on an existing offsite land use must be the result of a withdrawal associated with a proposed consumptive use. Impacts to land uses can occur as a result of many different activities, such as drainage activities, reduced rainfall, regional trends, and other non-consumptive use related influences. Impacts from these non-consumptive use influences will not be considered or mitigated for under this Section.</p>

**Commented [MEW1]:** For internal review purposes, the concept language is color coded for convenience:  
 Blue Text = SFWMD Handbook language  
 Purple Text = SJRWMD Handbook language  
 Red Text = SWFWMD Handbook language  
 Black text represents new language that varies from one of the above.

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		<p>permit renewals, the applicant is required to demonstrate that the allocation being renewed will not cause harm to land uses that existed at the time the allocation or portions of the allocation were first authorized either through an original permit or permit modification, consistent with the above provisions.</p> <p>The following offsite land uses are protected from harm caused by a consumptive use withdrawal under this Section, when consistent with the considerations identified above:</p> <p>A. Significant reduction in water levels on the property to the extent that the designed function of the water body and related surface water management improvements are damaged; not including aesthetic values. The designed function of a water body is that identified in the original permit or other governmental authorization issued for the construction of the water body. In cases where a permit was not required, the designed function shall be determined based on the purpose for the original construction of the water body (e.g., fill for construction, mining, or drainage canal).</p> <p>B. Damage to agriculture, including damage resulting from reduction in soil moisture resulting from consumptive use; or,</p> <p>C. Land collapse or subsidence caused by reduction in water levels associated with consumptive use.</p> <p>The applicant must identify those land uses that are potentially impacted from the withdrawal, such as sinkhole prone areas, seepage irrigated crop lands, and surface water management systems. The applicant must demonstrate that the resulting change in water levels related to the proposed consumptive use will not cause harm, as described above.</p> <p>In order to receive protection under this rule, the impact on a land use must be the result of a consumptive use withdrawal. Impacts to land use can occur as a result of many different activities, such as drainage activities, reduced rainfall, regional trends,</p>		<p>The applicant must identify those existing land uses that are potentially impacted by the withdrawal associated with their consumptive use. The applicant must demonstrate that the resulting change in water levels related to the proposed withdrawal will not cause harm, as described in this section above. Methods for avoiding harm to existing offsite land uses include: reducing the amount of water withdrawn, modifying the method or schedule of withdrawal, mitigating the damages caused, or not increasing the potential for flooding. An applicant may accept adverse flooding impacts on land owned by the applicant or land for which the applicant has demonstrated sufficient legal authority to accept such flooding impacts.</p> <p>The District shall include as a condition in any applicable permit the requirement that the permittee mitigate harm to existing offsite land uses that was caused in whole or in part by the permittee's consumptive use. The permit condition shall require the permittee to submit a mitigation plan for approval by the District that identifies actions necessary to mitigate harm to existing offsite land uses. Such actions must be sufficient to restore the land use that existed prior to the impact and may require a permit modification if required by Rule 62-41.331, F.A.C. A mitigation plan may include replacement of the impacted individual's equipment, relocation of wells, change in withdrawal source, or other means. The mitigation plan will require a permittee to mitigate immediately or upon the actual occurrence of harm.</p>
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		<p>and other non-consumptive use related influences. Impacts from these non-consumptive use influences will not be protected or mitigated for under this Section. Sufficient technical and scientific proof of the cause and effect of the alleged land use impact must exist, demonstrating that associated consumptive use harms the offsite land use.</p> <p>If the applicant cannot provide reasonable assurance that a proposed withdrawal will not harm an offsite land use, the applicant must submit a mitigation plan. The mitigation plan shall identify actions necessary to mitigate once the impact has occurred, or is imminent. Such actions must be sufficient to provide water consistent with the authorized use and will require a permit modification if required by Rule 40E-2.331, F.A.C. As necessary to offset the harm, mitigation will include pumpage reduction, replacement of the impacted individual's equipment, relocation of wells, change in withdrawal source, or other means.</p> <p>The permittee shall mitigate harm to offsite land uses that was caused in whole or in part by the permittee's withdrawals, consistent with the approved mitigation plan. The mitigation plan will require a permittee to mitigate immediately, or upon the actual occurrence of harm. The determination of when mitigation is required is based upon the likelihood that the harm is projected to occur.</p>		
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