



# LOWER SANTA FE AND ICHETUCKNEE RIVERS MINIMUM FLOWS AND LEVELS RULE DEVELOPMENT WORKSHOP DRAFT REGULATORY STRATEGY

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Suwannee River Water Management District Headquarters/Live Oak, FL | July 31, 2024



# LOWER SANTA FE AND ICHETUCKNEE RIVERS MINIMUM FLOWS AND LEVELS RULE DEVELOPMENT WORKSHOP AGENDA

## Workshop Agenda:

1. Call to Order.
2. Brief Overview of Rule Development.
3. Draft Regulatory Strategy.
  - i. General Provisions.
  - ii. Evaluation of Impacts.
  - iii. Recovery Strategy Requirements.
  - iv. Temporary Allocations.
  - v. Water Conservation.
  - vi. Private Residential Irrigation.
  - vii. Prevention Strategy.
  - viii. Progress and Goals.
4. Public Comments.
5. Next Steps.
6. Adjourn.

## Link to Rulemaking Website:

<https://floridadep.gov/owper/water-policy/content/lower-santa-fe-and-ichetucknee-rivers-lsfir-and-priority-springs-minimum>



SCAN THE QR CODE TO ACCESS WORKSHOP MATERIALS



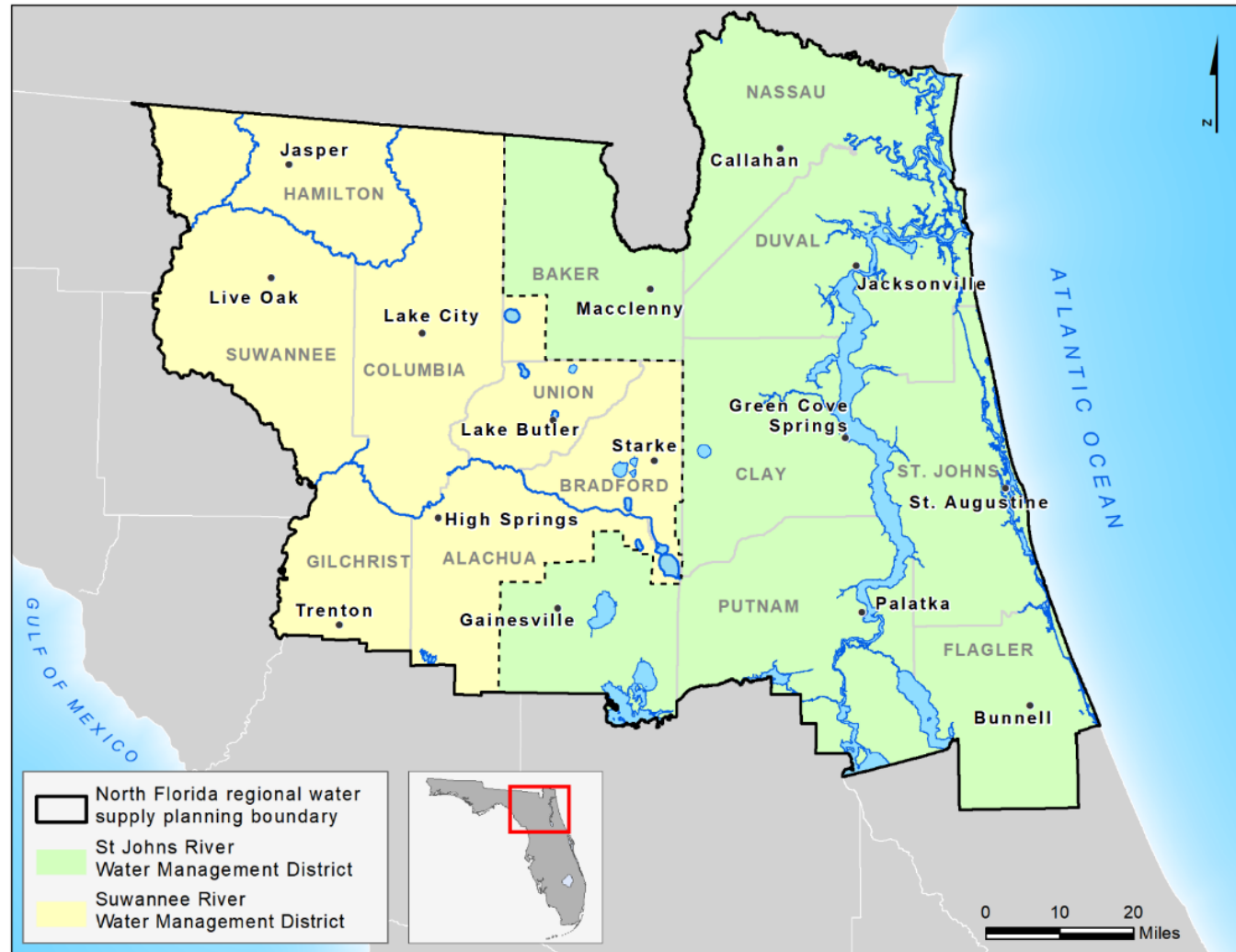
# BRIEF OVERVIEW OF LSFIR MFLS RULE DEVELOPMENT

## Objectives:

- The purpose of this rule development is to replace the previously-adopted minimum flows (MFLs) for the Lower Santa Fe and Ichetucknee Rivers and Priority Springs (LSFIR) with the adoption of new MFLs and **an associated recovery and prevention strategy**.
- Department-adopted MFLs and applicable recovery and prevention strategies are effective in all applicable water management districts without the need for further rulemaking and generally affect water use permittees.
- The MFLs in this rule amendment will be used as the basis for imposing limitations on withdrawals of groundwater and surface water in the consumptive use permit regulatory process and for reviewing proposed surface water management systems in the environmental resource permit regulatory process.



# DRAFT REGULATORY STRATEGY: APPLICABILITY



**NFRWSP Area**

These Supplemental Regulatory Measures apply to all uses of water authorized under Chapter 373, Florida Statutes (F.S.), with withdrawal points within the North Florida Regional Water Supply Partnership (NFRWSP) area.



# DRAFT REGULATORY STRATEGY: DEFINITIONS

## Lower Santa Fe and Ichetucknee Rivers and Priority Springs (LSFIR)

**Minimum Flows and Levels (MFLs):** The limit at which further withdrawals would be significantly harmful to the water resources or ecology of the area (namely the LSFIR).

**Authorized uses:** Uses of water authorized by a consumptive use permit issued by the applicable district, department, general permit by rule or by statute.

**Consumptive Use Permit (CUPs):** Permits to withdraw a specified amount of water from the aquifer; same as water use permit (WUP).

**MFL Compliance Point:** Point set forth in an MFL for evaluation and monitoring compliance.

**MFL Prevention Point:** MFL Compliance Point that is evaluated in accordance with section 1.2 as meeting its MFL, but, based on 20-year water use projections, would not meet its MFL.

**MFL Recovery Point:** MFL Compliance Point that is evaluated in accordance with section 1.2 as not meeting its MFL.



# DRAFT REGULATORY STRATEGY: DEFINITIONS (CONT.)

**Offset:** Action to reduce or eliminate harmful impacts resulting from withdrawals.

**Base Condition Water Use (BCWU):** Average quantity of groundwater withdrawn from the Upper and Lower Floridan aquifers by the permittee from 2014-2018.

**Existing Uses:** Actual water use associated with any authorized consumptive uses in effect as of Dec. 31, 2018.

**New Uses:** Any use of water other than Existing Uses.

**Group A:** New Uses that occurred between Jan. 1, 2019, and the effective date of this rule.

**Group B:** New Uses that will occur after the effective date of this rule.

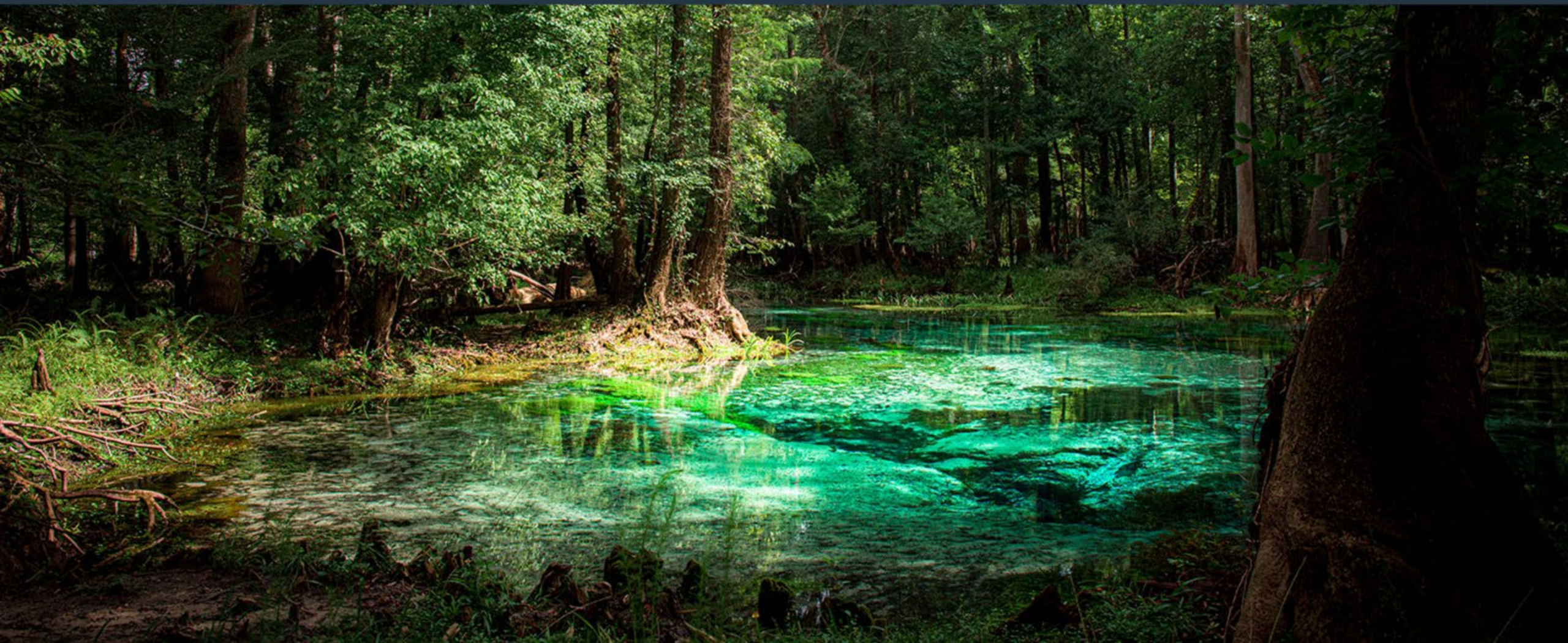
**Temporary Uses:** An authorized use of water that is temporarily required by an applicant or permittee to meet their reasonable demands during the implementation of a project to achieve the required offset.



# **PRESENTATION FROM SUWANNEE RIVER WATER MANAGEMENT DISTRICT (SRWMD) ON THE STATUS ASSESSMENT OF THE LSFIR**



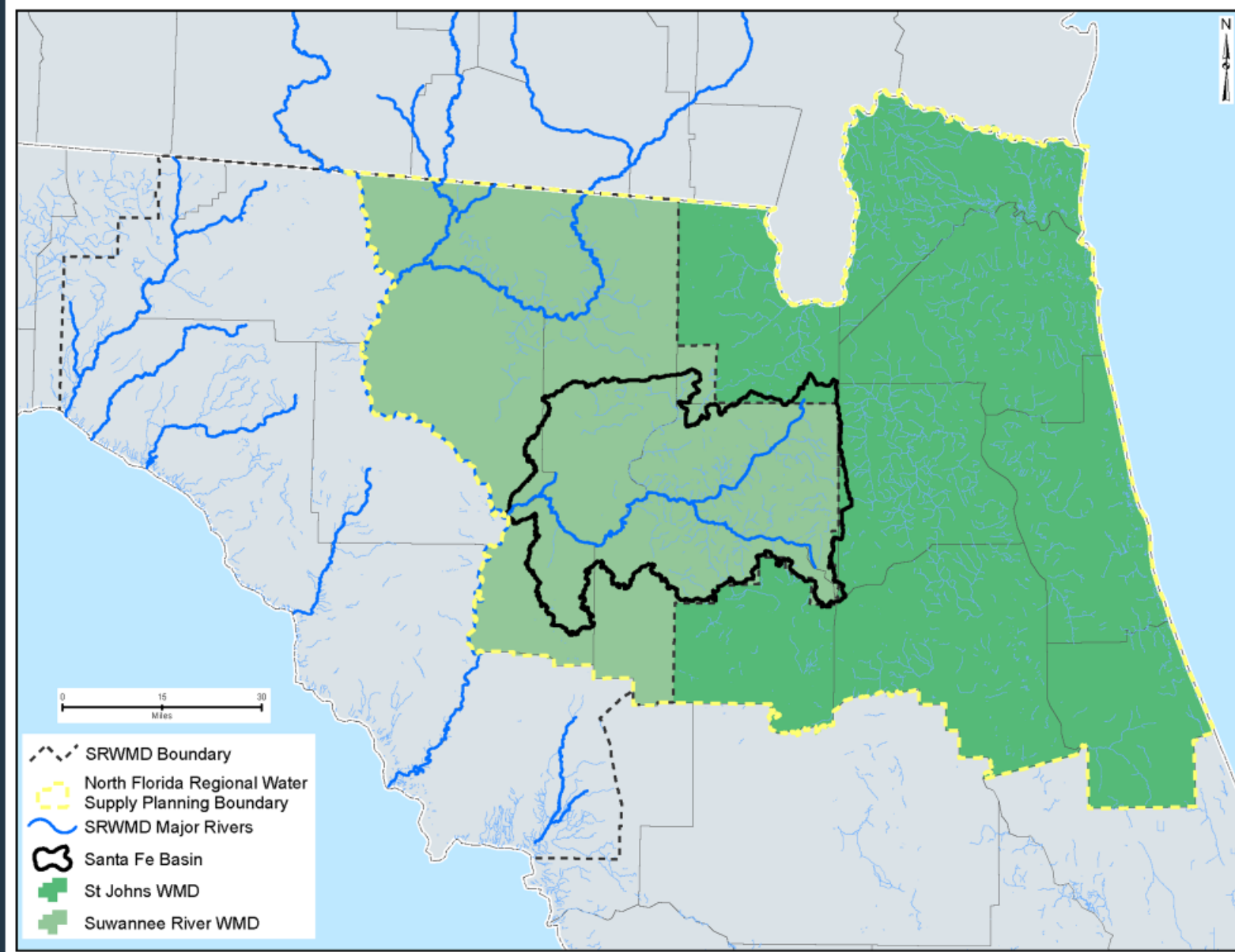
# Lower Santa Fe and Ichetucknee Rivers and Priority Springs MFL Status Update

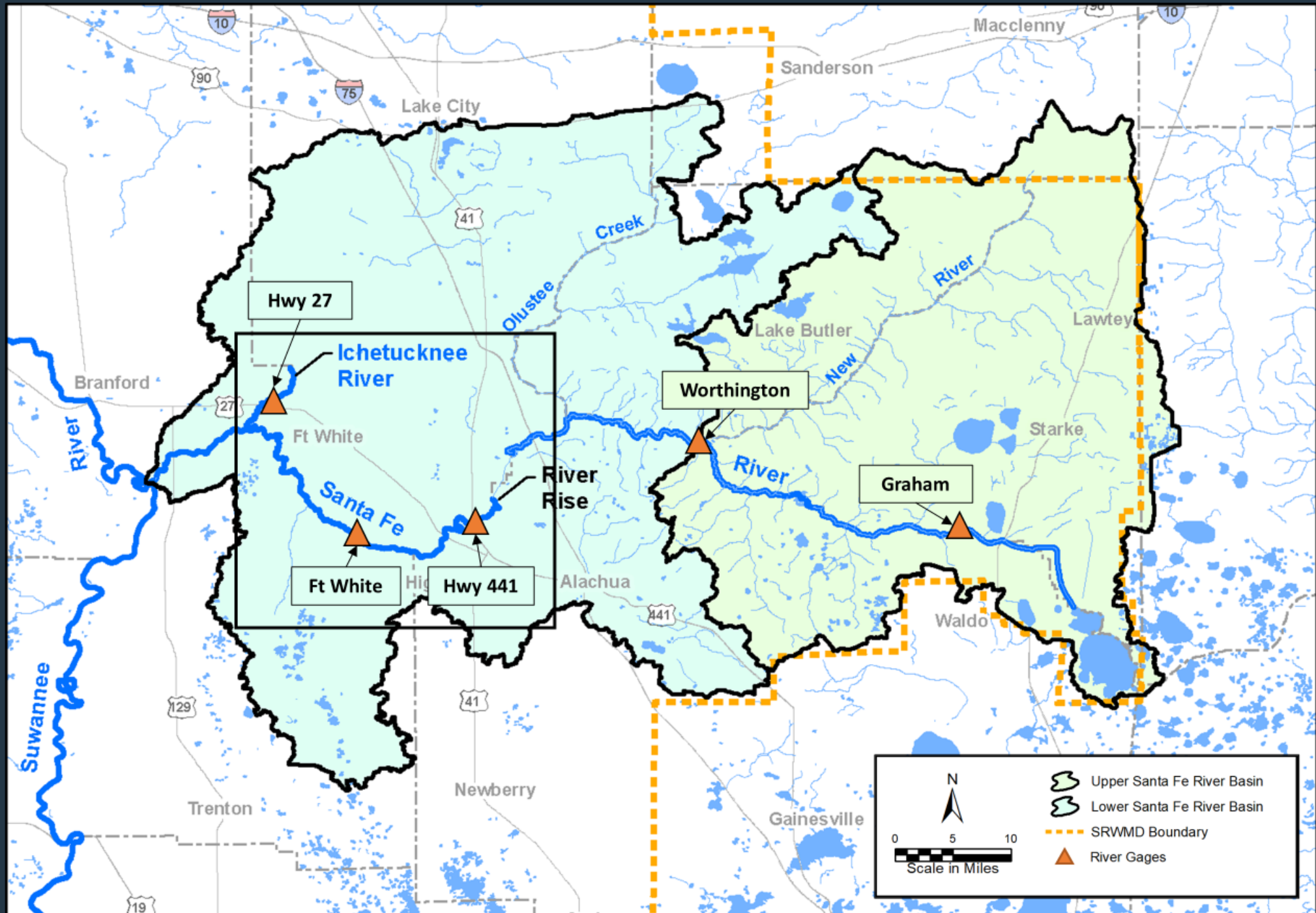






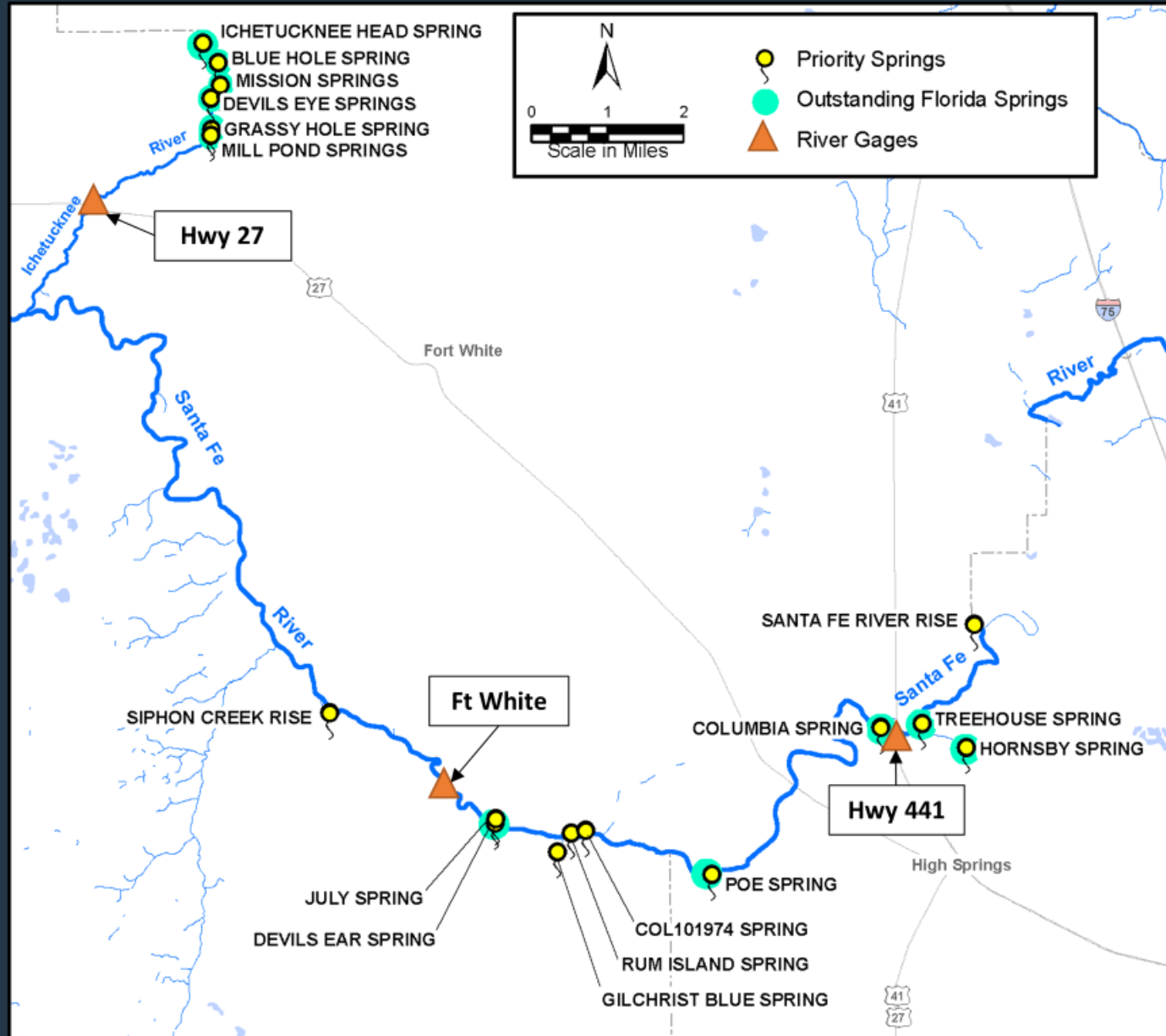
# Santa Fe River Basin







# Lower Santa Fe and Ichetucknee Rivers








# Lower Santa Fe and Ichetucknee Rivers and Priority Springs MFL Re-evaluation

	Lower Santa Fe River				Ichetucknee River	
	Fort White		Hwy 441		Hwy 27	
	2013 Evaluation	2021 Evaluation	2013 Evaluation	2021 Evaluation	2013 Evaluation	2021 Evaluation
<b>Reference Flow (cfs)</b>	1,320	1,270	N/A	552	354	356
<b>Minimum Flow (cfs)</b>	1,214	1,167	N/A	502	343	346
<b>Available Flow (cfs)</b>	106	103	N/A	50	11	10
<b>Flow reduction (%)</b>	8.0%	8.1%	N/A	9.1%	3.1%	2.8%

Note: Median daily values



# MFL Status Assessment

- MFL is not met  Recovery Strategy needed
- MFL met, expected to fall below MFL during the next 20 years  Prevention Strategy needed
- MFL met, expected to be met for next 20 years  No Recovery or Prevention Strategy needed



# MFL Status Assessment 2022 Summary

	Lower Santa Fe Fort White	Lower Santa Fe Hwy 441	Ichetucknee Hwy 27
<b>Available Flow (cfs)</b>	<b>103</b>	<b>50</b>	<b>10</b>
<b>Current Water Use Impact (cfs)</b>	73.3	51.0	16.3
<b>Current Net Flow (cfs)</b>	29.7	<b>-1.0</b>	<b>-6.3</b>
<b>Projected Water Use Impact (cfs)</b>	98.8	67.3	23.2
<b>Projected Net Flow (cfs)</b>	4.2	<b>-17.3</b>	<b>-13.2</b>
<b>Proposed MFL Status</b>	<b>Meeting</b>	<b>Recovery</b>	<b>Recovery</b>
<b>Existing MFL Status</b>	<b>Recovery</b>	<b>N/A</b>	<b>Recovery</b>

Note: Median daily values



**END OF  
PRESENTATION FROM SUWANNEE  
RIVER WATER MANAGEMENT  
DISTRICT (SRWMD) ON THE STATUS  
ASSESSMENT OF THE LSFIR**



# DRAFT REGULATORY STRATEGY: GENERAL PROVISIONS

- **Modification of Existing Permits**
  - All existing CUPs within the NFRWSP area will be modified to incorporate the applicable measures and conditions of this rulemaking; new permits will incorporate these measures from the outset.
- **Environmental Resource Permitting (ERP) and CUP Concurrency**
  - CUP applications for specific types of irrigation systems or requests to dewater shall not be considered complete until the applicant has submitted a complete application for an ERP. Some exclusions apply.





# DRAFT REGULATORY STRATEGY: EVALUATION OF IMPACTS TO THE LSFIR SYSTEM

- **All permittees and applicants for renewals, modifications and New Uses will be evaluated for impacts to the MFL Compliance Points by comparison of the existing natural system to predicted post withdrawal conditions.**
  - Applicants/permittees are only required to address their relative contribution to impacts.
- **Applicants must provide the following information as applicable:**
  - Information on the potential impact of individual and cumulative effects of proposed water use on the MFL Compliance Points in their current condition.
  - Summary report of any modeling performed and modeling files for district review.
  - If there are potential impacts, information demonstrating that an offset eliminates the impacts to MFL Recovery Points.



# DRAFT REGULATORY STRATEGY: RECOVERY STRATEGY REQUIREMENTS FOR AUTHORIZED USES

**Existing Uses:** Offset their proportionate share of BCWU impacts. Accomplished **as soon as practicable** and **no more than 20 years** from the effective date of the rule.

**New Uses Group A:** Fully offset their proportionate share of their BCWU and 100% of their authorized use in excess of their BCWU **as soon as practicable** and **no more than 20 years** from effective date of the rule.

**New Uses Group B:** Fully offset their impacts to the MFL Recovery Points **as soon as practicable** and **no more than 10 years** from effective date of the rule.



# DRAFT REGULATORY STRATEGY: RECOVERY STRATEGY REQUIREMENTS FOR AUTHORIZED USES

Note: Net benefits of offset projects must be calculated and incorporated into permits for the benefits of the offset to be credited to the permittee.

If the offset project ceases operation, does not achieve the anticipated benefit, or water use occurs where an offset credit was retired, then an equivalent replacement offset must be provided, or the permit allocation must be reduced, to address the permittee's impacts to the MFL Recovery Points.



# DRAFT REGULATORY STRATEGY: METHODS FOR OFFSETTING IMPACTS

## **Impacts associated with New and Existing Uses may be offset through:**

- Implementation of water resource or water supply development projects.
- Retirement of water use.
- Other means to reduce impacts at an MFL Recovery Point.



# DRAFT REGULATORY STRATEGY: OFFSET CREDITS FOR RETIREMENT

Permits that are subject to revocation in whole or in part pursuant to section 373.243, F.S., are **not** eligible to be used for offset credits. The reduction of water use from those permits accrues to the resource.

Agricultural permits with no water use for five consecutive years due to rotational practices, weather, or production of low water use commodities are not subject to revocation and are eligible to be used for offset credit provided agricultural operations have occurred over that time.



# DRAFT REGULATORY STRATEGY: OFFSET CREDITS FOR RETIREMENT

## **Eligibility:**

- Offset credits are available for retiring Existing Uses with exceptions; no offset credits are available for revocation of New Uses.

## **Ineligible Offset Credits:**

- Situations where an offset credit is not available include revocation due to nonuse, unauthorized water use, and if no Impact Offset Plan is required.

## **Calculation of Offset Credit:**

- Offset credit is determined based on net impact on MFL Recovery Points.
- Any offset credit shall accrue according to Assignment of Benefits section.



# DRAFT REGULATORY STRATEGY: ASSIGNMENT OF BENEFITS

The benefit of any offset project shall accrue to the entity providing the offset project **or** entities designated by the providing entity **or** the natural system.

**Any offset not applied to a permit will be available for use in the following order:**

- Deficits associated with existing or anticipated exempt and sub-threshold uses.
- Deficits associated with existing permitted uses.
- Applications for New Uses or increases in allocation in accordance with the Florida Department of Environmental Protection (DEP) and water management district (WMD) rules.

**In no case can a permittee receive an offset credit greater than the permittee's net impact.**



# DRAFT REGULATORY STRATEGY: IMPACT OFFSET PLAN DUE DATES

**Permittees must submit a plan detailing how they will offset impacts to MFL Recovery Points.**

**Plans are due based on the magnitude of the permit's impact from water use.**

<b>Impact From Water Use:</b>	<b>Impact Offset Plan Due Date:</b>
0.1 cubic feet per second (cfs) or greater at any MFL Recovery Points as of the BCWU.	No later than two years after [effective date], or upon application for modification to increase allocation or renewal or 10-year compliance review, whichever is sooner.
0.01 cfs or greater but less than 0.1 cfs at any MFL Recovery Points as of the BCWU.	No later than 10 years after [effective date], or upon application for modification to increase allocation or renewal or 10-year compliance review, whichever is sooner.
All New Uses after the effective date of this rule as defined in section 1.1.	Upon application.





# **DRAFT REGULATORY STRATEGY: PLAN SUBMITTAL AND REQUIREMENTS FOR OFFSETTING IMPACTS**

- **Plans must include project descriptions, benefit estimates, participation agreements, water conservation plans, and implementation schedules.**
- **Plans are to be reviewed and approved by the district and shall be made part of the permit.**
- **Offsets implemented during the duration of the permit shall be evaluated every five years after the Initial Offset Plan and at critical milestones for projects identified in the plan.**



# DRAFT REGULATORY STRATEGY: TEMPORARY ALLOCATIONS

- **An applicant or permittee with an Existing Use or a New Use that meets all conditions for issuance excluding meeting their proportionate share of recovery may request a temporary allocation of groundwater not to exceed the permittee's existing authorized allocation.**



# DRAFT REGULATORY STRATEGY: TEMPORARY ALLOCATIONS

- **The permit conditions for quantity, timing and duration of this temporary allocation shall be based on:**
  1. Time required for design, receipt of necessary authorizations, and construction of the alternative supply or offset project.
  2. Timing of demands to be met for the impact offset project.
  3. Other factors indicating a reasonable period.
  4. The temporary allocation expires when water from the offset project is deemed available by the district, or upon expiration of the permit, whichever is sooner.
  5. The temporary allocation can only be authorized for a period up to five years and must be approved by the Governing Board based on evidence of progress towards implementation of the planned offset and reasonable assurance that the project will be completed within the approved duration.
  6. The temporary allocation only remains effective if the permittee continues to meet the conditions for issuance.



# DRAFT REGULATORY STRATEGY: WATER CONSERVATION

- **Within the NFRWSP Area these supplemental water conservation measures supersede subsections 2.2.2.5.1 through 2.2.2.5.1b of the St. Johns River Water Management District (SJRWMD) Applicant's Handbook and subsections 2.3.2.3(a) through 2.3.2.3(b) of the SRWMD Applicant's Handbook.**
- **Water Conservation Measures will include components related to:**
  - Public Water Supply.
  - Agriculture.
  - Other Use types:
    - Commercial/Industrial/Institutional (CII).
    - Landscape Recreation (LR).
    - Mining/Dewatering (MD).



# DRAFT REGULATORY STRATEGY: WATER CONSERVATION - PUBLIC SUPPLY

- **All public water supply permittees shall implement either:**
  - A standard water conservation plan, **or**
  - A goal-based water conservation plan
- **The proposed plan shall increase water conservation effectiveness where environmentally, technically and economically feasible, and shall not allow reduction in overall utility-specific water conservation effectiveness.**



# **DRAFT REGULATORY STRATEGY: WATER CONSERVATION - PUBLIC SUPPLY**

- **The water conservation plan shall include an annual conservation goal for reducing residential per capita water use.**
- **The permittee or applicant shall meet the requirements of the annual conservation goal by demonstrating achievement of or yearly progress toward a residential per capita daily water use rate of no greater than 75 gallons per capita day.**
- **The plan shall include interim per capita reduction targets (e.g., every five years).**



# DRAFT REGULATORY STRATEGY: WATER CONSERVATION - PUBLIC SUPPLY

- **Standard Water Conservation Plan must include:**
  - Water conservation public education program.
  - Outdoor water use reduction program.
  - Incentivized rate structure.
  - Water use reduction program if water losses exceed 10%.
  - Indoor water use conservation program.
- **Goal-based Water Conservation Plan must include:**
  - Includes water conservation public education program, outdoor water use reduction, and a water loss reduction program (as with a Standard Conservation Plan).
  - Explanation of why any alternative elements included in the plan are appropriate, and:
    - Description of water conservation measures selected for implementation.
    - Timeline for implementation of each element (as determined to be appropriate for permittee or applicant's service area).



# DRAFT REGULATORY STRATEGY: WATER CONSERVATION - PUBLIC SUPPLY

- **Uniform method for calculating residential per capita daily water use:**
  - Residential Per Capita = Total Residential Water Use / Service Area Residential Population.
- **All public supply permittees with allocations  $\geq 100,000$  gallons per day (gpd) must:**
  - Submit a Public Supply Annual Report every year by April 1<sup>st</sup>.
  - Submit a water conservation report every 5 years evaluating the effectiveness of the program.
- **All public supply permittees with allocations  $> 1$  million gallons per day (mgd) shall also include data analytics to demonstrate the effectiveness of the program.**





# DRAFT REGULATORY STRATEGY: WATER CONSERVATION - AGRICULTURAL

- **Agricultural permittees and applicants must use best-available water efficient practices and take reasonable actions to maintain efficiency.**
- **Applicants or permittees with an authorized or requested water use allocation > 100,000 gpd shall implement agricultural conservation measures.**



# DRAFT REGULATORY STRATEGY: WATER CONSERVATION - AGRICULTURAL

## Irrigation system maintenance and evaluation:

- Distribution uniformity (DU) = measure of how uniformly water is applied to irrigated area, not the irrigation system efficiency.
- Permittees shall maintain the minimum distribution uniformity requirements.
- Mobile Irrigation Lab (MIL) evaluation or equivalent shall be submitted to ensure requirements are met.
- If irrigation systems do not meet minimum requirements, permittees shall submit a plan outlining how the minimum will be met along with a timeline.

<b>Irrigation System Type</b>	<b>Minimum DU, %</b>
<b>Micro-Drip</b>	80–90
<b>Micro-Spray</b>	75–85
<b>Low Pressure Center Pivot or Lateral Move</b>	75–85
<b>Standard Center Pivot with End Guns</b>	65–75
<b>In-Place Overhead Sprinklers</b>	70–75



# DRAFT REGULATORY STRATEGY: WATER CONSERVATION - AGRICULTURAL

- **All applicants requesting a seepage irrigation allocation must submit a plan to transition to a more efficient system as feasible.**
- **Irrigation system management:**
  - Implement water-saving practices appropriate to field conditions.
  - Must meet a minimum suite of conservation measures.
- **Tailwater recovery systems and Alternative Water Supply (AWS) projects are given significant weight.**



# DRAFT REGULATORY STRATEGY: WATER CONSERVATION - AGRICULTURAL

- **Agricultural compliance monitoring required for all applicants or permittees with an allocations > 100,000 gpd.**
  - Upon application for modification, to increase allocation or duration, renewal, or 10-yr compliance review, permittees must provide verification that selected water conservation measures are still in place.
  - Permittees shall provide district staff reasonable access to verify measures are in place.



# DRAFT REGULATORY STRATEGY: WATER CONSERVATION - OTHER USE TYPES

- **All Commercial/Industrial/Institutional, Landscape Recreation, and Mining/Dewatering use type permits > 100,000 gpd.**
  - Evaluate effectiveness of water conservation plan.
  - Update existing plan upon application for modification.
  - List any applicable practices/measures being implemented.
  - Must include projected water conservation activities and benefits associated with the program.



# DRAFT REGULATORY STRATEGY: PRIVATE RESIDENTIAL IRRIGATION

- **Where a lower quality water source is available for irrigation, or public supply or reclaimed water is available at or immediately adjacent to the property boundary:**
  - No new private residential irrigation wells used solely for irrigation shall be constructed in the Floridan.
  - No private residential irrigation water use from new wells constructed in the Floridan aquifer shall be allowed or authorized by a general permit by rule.



# DRAFT REGULATORY STRATEGY: PREVENTION STRATEGY FOR MFL COMPLIANCE POINTS

- **If an MFL Compliance Point is determined to be in prevention:**
  - All applicants for renewals, modification and New Uses shall be evaluated for their impacts on the MFL Prevention Points.
  - All applicants for New Uses, including increases in allocation, shall offset 100% of the expected impacts from their proposed new water uses.
  - All applicants, including new permits, renewals and modifications shall comply with the water conservation requirements outlined within this strategy.



# DRAFT REGULATORY STRATEGY:

## PROGRESS: WHAT WE'VE BEEN ABLE TO ACCOMPLISH

<b>Technical Work, Including Model Development</b>	<b>Completed</b>
<b>Peer Review</b>	<b>Completed</b>
<b>Technical Report</b>	<b>Completed</b>
<b>Status Assessment</b> “If, at the time a minimum flow or minimum water level is initially established for a water body pursuant to s. 373.042 or is revised, the existing flow or water level in the water body is below, or is projected to fall within 20 years below, the applicable minimum flow or minimum water level, the department or governing board, as part of the regional water supply plan described in s. 373.709, <b>shall concurrently adopt or modify and implement a recovery or prevention strategy.</b> ” 373.0421(2)	<b>Completed</b>





# DRAFT REGULATORY STRATEGY:

## GOALS: THINGS TO COMPLETE BEFORE RULE CAN BE EFFECTIVE

### Recovery Strategy (Regulatory and Nonregulatory Components)

“(4) The recovery or prevention strategy for each Outstanding Florida Spring must, at a minimum, include:

- (a) A listing of all specific projects identified for implementation of the plan;
- (b) A priority listing of each project;
- (c) For each listed project, the estimated cost of and the estimated date of completion;
- (d) The source and amount of financial assistance to be made available by the water management district for each listed project, which may not be less than 25 percent of the total project cost unless a specific funding source or sources are identified which will provide more than 75 percent of the total project cost. The Northwest Florida Water Management District and the Suwannee River Water Management District are not required to meet the minimum requirement to provide financial assistance pursuant to this paragraph;
- (e) An estimate of each listed project’s benefit to an Outstanding Florida Spring; and
- (f) **An implementation plan designed with a target to achieve the adopted minimum flow or minimum water level no more than 20 years after the adoption of a recovery or prevention strategy.** The water management district or the department shall develop a schedule establishing 5-year, 10-year, and 15-year targets for achieving the adopted minimum flows or minimum water levels. The schedule shall be used to provide guidance for planning and funding purposes and is exempt from chapter 120.” 373.805

Underway



# DRAFT REGULATORY STRATEGY:

GOALS: THINGS TO COMPLETE BEFORE RULE CAN BE EFFECTIVE

## Statement of Estimated Regulatory Cost Development

“[A]n agency must prepare a **statement of estimated regulatory costs** of the proposed rule, as provided by s. 120.541, if:

- a. The proposed rule will have an adverse impact on small business; or
- b. The proposed rule is likely to directly or indirectly increase regulatory costs in excess of \$200,000 in the aggregate in this state within 1 year after the implementation of the rule.”  
120.54(3)(b)1.

**Pending  
completion  
of final  
regulatory  
components**

## Adoption of Regulatory Rules

Includes timelines necessary for publishing the Notice of Proposed Rule, rulemaking hearings, challenge windows, and time required in the event of a Notice of Change.

**Ch. 120  
Outlines  
Time  
Schedule**



# DRAFT REGULATORY STRATEGY:

GOALS: THINGS TO COMPLETE BEFORE RULE CAN BE EFFECTIVE

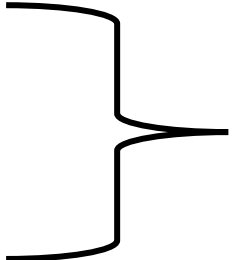
<p><b>Approval by Governing Boards of Non-Regulatory Components</b></p> <p>“To ensure that sufficient water is available for all existing and future reasonable-beneficial uses and the natural systems, the applicable regional water supply plan prepared pursuant to s. 373.709 shall be amended to include any water supply development project or water resource development project identified in a recovery or prevention strategy. Such amendment shall be approved concurrently with relevant portions of the recovery or prevention strategy.”</p> <p>373.0421(3)</p>	<p><b>TBD</b></p>
<p><b>Submission for Ratification by Legislature</b></p> <p>“If the adverse impact or regulatory costs of the rule exceed any of the criteria established in paragraph (2)(a), the rule shall be submitted to the President of the Senate and Speaker of the House of Representatives no later than 30 days prior to the next regular legislative session, and the rule may not take effect until it is ratified by the Legislature.”</p> <p>120.541(3)</p>	<p><b>TBD</b></p>
<p><b>Ratification by Legislature</b></p>	<p><b>TBD</b></p>



# DRAFT REGULATORY STRATEGY:

## GOALS: THINGS TO COMPLETE BEFORE RULE CAN BE EFFECTIVE

### Rulemaking Actions to Complete:

- Finalize Strategy and MFL Rule
  - District Governing Board Approval of Non-regulatory Components
  - Secretary Approval of Final Rule and NOPR
  - Submit Notice of Proposed Rule to OFARR
  - Publish Notice of Proposed Rule in FAR\*
  - File JAPC package\*
  - File SERC\*
  - No Change Letter to JAPC\*
  - Submit Department of State Materials
  - Submit Final Certification Package
- 
- \* Lower Cost Regulatory Alternative
  - \* Public Hearing
  - \* Challenge to Rule
  - \* Revisions to Rule
  - \* Notice of Change (NOC) & NOC Challenge Period



# PUBLIC COMMENTS



**Participants will be given 3 minutes to make their comments.**

**Written comments may be submitted to the email address below:**

[OWP\\_rulemaking@floridadep.gov](mailto:OWP_rulemaking@floridadep.gov)

**Please submit public comments by Aug. 30, 2024.**



# NEXT STEPS

## Where do we go from here?

- DEP will address comments received at this public workshop or during the subsequent comment period.
- Additional work to refine remaining strategy details.
- Continue work to develop projects to meet the MFLs.



# THANK YOU

**Pamela Flores**

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Florida Department of Environmental Protection

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