

July 2, 2015

Janet Llewellyn
Policy Administrator
Office of Water Policy
Florida Department of Environmental Protection

Re: FSAWWAUC and FWEAUC Comments
Regarding Proposed Revisions to Chapter 62-40, F.A.C.

Dear Ms. Llewellyn:

The Utility Councils of the Florida Section of the American Water Works Association (FSAWWA) and the Florida Water Environment Association (FWEA) would like to thank the Florida Department of Environmental Protection (DEP) for the opportunity to take part in the development of proposed revisions to Chapter 62-40, Florida Administrative Code, the Water Resource Implementation Rule. The Water Resource Implementation Rule is an essential component of Florida's water policy, providing guidance to the five water management districts regarding the implementation and execution of water supply planning and permitting. The Utility Councils support DEP's efforts to update the Water Resource Implementation Rule with existing statutory requirements and address important policy issues that will play a significant role in regional water supply planning and permitting.

DEP's draft rule language generally provides policy guidance to the water management districts while maintaining the necessary flexibility to address water policy and permitting decisions that are unique to a particular District or water supply planning regions. While the Utility Councils agree with the intent of the proposed language, we offer some caveats to be considered in further clarifying DEP intent and providing greater certainty to the water management districts and the public regarding these important water policy and regulation issues. As detailed below, the Utility Councils support certain clarifications including the following:

Rule 62-40.410 F.A.C. Water Supply Protection and Management

In determining when an application for consumptive use is no longer pending under Section 373.233, F.S., the permit pursuant to the application should have been issued and the timeframe for any administrative challenges or appeals of agency action should have expired. Additionally, the Water Management Districts should provide notice to all interested parties regarding any applications that have been deemed complete and where Section 373.233, F.S., is found to be applicable. The Utility Councils support the language offered by OUC regarding possibly clarifying amendments to the language proposed by DEP.

Rule 62-40.531 F.A.C. Regional Water Supply Plans

While the Utility Councils appreciate the efforts of the DEP to further clarify the definition of a non-traditional source for the purposes of alternative water supply, we request that DEP clearly define the

concept of historical utilization so that the development of a non-traditional water source shall not result in the source losing its non-traditional status.

Additionally, in considering the extent to which the non-traditional source has historically been used for water supply, Water Management Districts should also compare the quantity of water that has been historically utilized from the non-traditional source to that historically utilized from traditional sources in the same planning region. DEP's proposed rule language proposed the examination of historical utilization of the source in all or a portion of the planning area in the alternative to a comparison between historical use of traditional and non-traditional uses.

Thank you for your consideration of these comments. We look forward to continuing to work with you regarding implementation of water policies that meet the needs of our citizens and protect water resources. If you have any questions or comments, please contact David Childs at 850-222-7500 or davidc@hgslaw.com or Christopher Pettit at 561-493-6009 or cpettit@pbwater.com.

Sincerely,

Rob Teegarden



Chair
FSAWWA Utility Council

Brian Wheeler



Chair
FWEA Utility Council