

MEMORANDUM

To: SEFLUC

From: Kristin Y. Melton

Date: August 14, 2017

RE: Overview of August 2, 2017 CFWI Workshop

CFWI Meeting – August 2, 2017

The August 2, 2017 CFWI Rulemaking Workshop in Kissimmee focused on the following topics:

- Agricultural Demands
- Landscape/Recreation Demands
- Annual Conservation Goal
 - o All Sectors
- I/C/I Demands
- Public Supply Demands
- Mining/Dewatering Demands
- Variances

The purpose of this summary is to highlight the discussions that may be of interest to SEFLUC and its members. The majority of the discussion focused on the proposed Annual Conservation Goal rule language. Prior to receiving the DEP's revised rule language distributed for the August 2 meeting, the Public Water Suppliers, Ag, and Industries prepared a joint proposed "All Water Use Group" draft that substantially altered the original DEP rule language. A copy of the "All Water Use Group Draft" is enclosed herein. During the meeting, the all water use group representative suggested that the DEP proposed draft should be replaced in its entirety with the All Water Use Group Draft.

The All Water Use Group commented that the DEP draft made it difficult to implement conservation measures because it required *annual* conservation goals when in many instances conservation is built into the initial design of the project. Additionally, the annual goals discourage conservation because instead of doing all the conservation at the beginning for maximum conservation over the years, users are forced to spread these efforts over a number of years. As a result, the All Water Use Group Draft provides flexibility to allow the applicant to express the goal for the entire period of time on an annualized basis so that it is not required to implement a conservation practice or program each year of the annual conservation goal period.

Additionally, the All Water Use Group draft eliminated the five year reporting requirement on the grounds that 5 years is not long enough to formulate any helpful information and that it would result in additional paperwork that is not utilized for anything productive. The All Water Use Group advised that if five year reports are required, the DEP and WMDs should at the very least describe what they will do with the reports so that the permittees can tailor the report to only include the information that the agencies will actually use.

The August 2 DEP draft language requiring permittees to “track on an annual basis” suggests an annual report. The All Water Use Group draft requires the permittee to track implementation and only requires submission of tracking information when required as part of a compliance report.

One of the major topics of discussion was the overall interpretation by DEP and the WMDs of what is required by the statute. Water users are concerned that the DEP draft is interpreting the “conservation goal” as becoming a part of the permit and therefore subject to enforcement actions if it is not met. Water Users emphasized that the statute uses the term “goal” and that a goal is something aspirational, rather than a statutory mandate. As a result, while everyone is required to set goals, it should not be held against permittees who do not achieve these goals. In fact, by making these goals enforceable actions, the rule would discourage innovative conservation efforts that could fail, but could have the potential to bring significant savings because users would not want to put their permits at risk.

The DEP commented that there were a number of topics contemplated as part of the DEP August 2 draft that were not considered in the All Water Use Group draft. Among those topics was the mechanism for amending conservation goals. The DEP draft proposed amendments through letter modifications. The All Water Use Group responded that their proposed draft allowed permittees to modify their conservation goals at any time for any reason without obtaining actual approval from an agency. Instead, the permittee would only be required to notify the agency of the modification. The All Water Use Group commented that this will encourage permittees to try riskier goals.

The All Water Use group also commented that the DEP rule draft needs to make clear that numeric goals are never required and are only a subset of narrative requirements if the narrative goal includes a numeric element. The DEP agreed with this comment.

In addition to the Annual Conservation Goal rule language, the group also discussed proposed changes to the public supply demands. Under the August 2 DEP Rule draft, BEBR is now the predominant method for determining population projections. This is a change that public water suppliers previously requested. The public water suppliers had few comments on the public supply demand draft rule language, but did point out that the definition of “water loss” should not include flushing.

Finally, with respect to the DEP’s proposed variance rule, the group commented that the rule should be revised to lay out exactly what is required for a variance rather than cross-reference other DEP rules. Therefore, a revised draft will be forthcoming.

The deadline to submit comments on language proposed at the August 2 workshop is September 1, 2017.