



## FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES COMMISSIONER WILTON SIMPSON

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October 28, 2024

Pamela Flores  
Office of Water Policy and Ecosystems Restoration  
Florida Department of Environmental Protection  
3900 Commonwealth Blvd., M.S. 24  
Tallahassee, FL 32399-2400

**RE: Lower Santa Fe and Ichetucknee River(s) Minimum Flows and Levels  
Draft Regulatory Strategy – Agricultural Water Conservation**

Dear Ms. Flores:

The Florida Department of Agriculture and Consumer Services (FDACS) appreciates the opportunity to provide comments on the Lower Santa Fe River and Ichetucknee River Minimum Flows and Levels (MFL) Draft Regulatory Strategy, prepared by the Florida Department of Environmental Protection (FDEP) in collaboration with the Suwannee River Water Management District (SRWMD) and the St. Johns Water Management District (SJRWMD).

The proposed rule language will impact agricultural producers in the Lower Santa Fe River / Ichetucknee River basins, as well as those elsewhere within SRWMD and SJRWMD based on the North Florida Regional Water Supply Plan (NFRWSP) boundaries and MFL priority schedules set by the Districts. FDACS appreciates the consideration of our initial comments on the Agricultural Water Conservation section of the Strategy, provided in April 2022, that are reflected in the current version of the document. We remain concerned, however, that the proposed language creates regulatory and financial uncertainty about the implementation of the Regulatory Strategy. The comments provided herein address these concerns regarding the agricultural language only and should not be construed as addressing the portions of rule language applicable to other water uses. Our detailed comments are as follows:

### **3.0 Recovery Strategy Requirements for Authorized Uses**

The proposed language is ambiguous regarding how agricultural permittees are expected to comply with the recovery strategy requirements listed in this section. Regulatory Strategy 3.0 requires existing and new users to offset their proportionate share of Base Condition Water Use

(BCWU). Regulatory Strategy 3.3 states that the offset must be done through water resource or water supply development projects, retirement of water uses, or other means.

However, the strategy lacks detail regarding how existing legal agricultural users will implement this requirement. Agricultural water use constitutes the largest portion of the water use in the SRWMD. Without clear and feasible options for existing legal users to implement these requirements, it is difficult to estimate with certainty the financial and regulatory burden established by the strategy that agricultural producers may face.

Agricultural producers in this region face numerous fiscal and regulatory burdens. Many this year are operating at a loss. Buying into or creating a water supply development project may pose an uncertain, significant expense on producers. Further, the expense of retiring a water use permit through the purchase of land with a water use permit attached is likely not financially feasible for many producers. Land with a water use permit that is subsequently retired will lose significant value because producers will be unable to grow higher value irrigated crops.

FDACS recommends amending Section 3.3 with specific, actionable methods agricultural permittees can use to achieve the required offsets and what constitutes “other means” to reduce impacts at an MFL Recovery Point. Expectations regarding offsets must acknowledge the disparity between public supply permittees with a rate-paying customer base and agricultural permittees’ ability to access, develop, and utilize alternative water supplies.

To date, no summary has been produced that identifies how many existing legal users will be impacted or how much offset will be required of each based on the current permitted amounts. FDACS requests that the FDEP provide such a summary that identifies which existing legal users will be expected to provide offsets and in what amounts based on current conditions.

### **5.2.1. Irrigation System Maintenance and Evaluation**

Regulatory Strategy 5.2.1 requires producers to submit an MIL evaluation or their equivalent upon application for renewal, modification to increase allocation or permit duration, or 10-year compliance review for water use permits. This language, as written, will create additional demand on the Mobile Irrigation Lab (MIL) program, resulting in increases in associated expenditures and may cause increased demand for financial assistance to undertake required repairs or retrofits of permitted irrigation systems.

FDACS provides MIL evaluations, at no-cost, to producers enrolled in an FDACS Best Management Practices (BMP) program. Agricultural operations within adopted Basin Management Action Plan (BMAP) areas are required, pursuant to section 403.067, Florida Statutes, to enroll and implement the applicable BMPs for their specific operations. However, enrollment remains voluntary in areas outside of adopted BMAP areas. FDACS is actively

working to enroll agricultural operations within the multiple BMAPs in the NFRWSP area, which will increase the demand for MIL evaluations.

There are over 200 operations enrolled in the FDACS BMP program (each of which may have more than one irrigation system) waiting for an MIL visit in the southwestern portion of the plan area. Further, per FSAID 11, there are currently 2,691 irrigation systems in the plan area. As irrigated agricultural acreage is projected to increase in the SRWMD through 2050, FDACS expects the MIL workload to increase significantly over its current capacity – even before the addition of requirements outlined in the draft language.

The proposed Regulatory Strategy would require applicants and permittees with an allocation of greater than 100,000 gpd to have an MIL evaluation for each irrigation system prior to initial application, application for renewal or modification, or during the 10-year compliance review. FDACS recommends the following modifications to the strategy language to provide clarity and assistance with workload assessment:

1. Please specify how many years prior to the water use permit application (including renewals and modifications) or 10-year compliance review being submitted must the MIL evaluation have been performed. We recommend an MIL evaluation within the prior five years; and
2. Should an MIL evaluation show a Distribution Uniformity (DU) below the minimum standards set by the rule, we suggest that there be a set timeframe of three years to repair or retrofit the irrigation system to meet the minimum requirement instead of requiring submittal of a separate plan, or
3. Should an MIL evaluation show a DU below the minimum standards set by the rule, please stipulate a specific timeframe for repair, retrofit, or replacement that should be included in the plan submitted by the applicant or permittee.

FDACS is currently in discussions, both with SRWMD and internally, regarding funding an additional MIL in the SRWMD portion of the plan area to address existing and future needs.

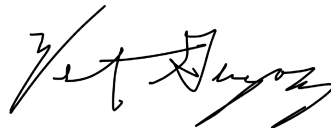
### **5.2.3. Irrigation System Management**

Regulatory Strategy 5.2.3 requires producers to implement water saving practices as appropriate to their specific field conditions. These water saving practices must be implemented project-wide. The Regulatory Strategy should clearly state if there are limiting timeframes for implementation of the selected Water Conservation Measures (WCMs) listed in Table 4. For example, if a permittee or applicant has been utilizing a conservation measure for ten years prior to their application or compliance review, it is necessary to understand if they will be required to implement additional conservation measures to receive or comply with their permit.

Further, FDACS requests clarification on whether each WCM will be assigned a numeric water savings value, and if so, would appreciate an opportunity to review those values prior to rule adoption with FDEP and the WMDs. The draft Strategy reads: “Permittees that plan to implement and maintain a Tailwater Recovery System or AWS Project may be exempt from this section [5.2.3. Irrigation System Management] provided the water savings is higher than the estimated WCMs appropriate for their specific field conditions.” As written, this language alludes to WCMs having water savings values assigned to them.

Thank you again for the opportunity to provide these comments. FDACS look forward to working with FDEP and the WMDs further on the Regulatory Strategy and associated rule for the Lower Santa Fe and Ichetucknee River MFLs. If you have any questions regarding our comments, please contact Madeline Hart, 850-617-1724 or [Madeline.Hart@FDACS.gov](mailto:Madeline.Hart@FDACS.gov).

Sincerely,

A handwritten signature in black ink, appearing to read 'N. West Gregory', with a stylized, cursive script.

N. West Gregory  
Director, Office of Agricultural Water Policy  
Florida Department of Agriculture and Consumer Services