Appendix C

Regulatory Framework

REGULATORY FRAMEWORK

Pinellas County, along with the federal and state governments, has adopted various laws and regulations to ensure a sufficient supply of potable water. It is important to have a clear understanding of this regulatory framework so that informed decisions can be made. This is especially true for Pinellas County and its residents who receive much of their potable water from sources that are outside the County's jurisdiction.

Pinellas County Utilities (PCU) continues to comply with all federal, state, and local laws and regulations related to water quality and quantity. The following section outlines the basic regulatory framework that affects potable water supplies for Pinellas County. In addition, this section identifies the governmental organizations responsible for either the administration or the implementation of the regulations. The Pinellas County Comprehensive Plan has other elements that may have more information on similar or related issues. Two suggested elements are the Natural Resources Conservation and Management Element and the Intergovernmental Coordination Element.

WATER QUALITY

Federal Level

The Federal Safe Drinking Water Act, enacted in 1974 and amended in 1986, 1991, and 1996 is designed to ensure safe drinking water by establishing drinking water standards for treated potable water and by creating special protection for sources of drinking water, including groundwater sources like San Antonio's sole source aquifer.

Under changes made in the 1986 Safe Drinking Water Act amendments, the EPA required all public water systems to monitor for 16 inorganic and 54 organic contaminants for which maximum contaminant levels (MCLs) have been established.

The Federal Safe Drinking Water Act (SDWA), PL 93-523, was established to protect the public's health by requiring public water systems to maintain quality standards. Adopted in 1974 and amended in 1986, the SDWA defines primary and secondary quality standards. Primary standards protect the public's health by establishing maximum contaminant levels (MCLs), which are the highest levels of toxic or dangerous substances permitted in drinking water. The secondary standards involve aesthetic issues, such as the color, taste, and odor of the water.

The requirements of the SDWA are assigned to the United States Environmental Protection Agency (EPA) which has the duty of establishing both primary and secondary water quality standards, as well as delegating primacy to the individual states. Primacy is defined as the primary responsibility of enforcing the quality standards and supervising public water systems.

State Level

In accordance with the federal Safe Drinking Water Act, the state of Florida passed the ***Florida Safe Drinking Water ACT (FSDWA),*** (Florida Statutes 403.85). The standards in the Florida act do not differ from the federal act, yet Florida does specify that federal primary standards are to be Florida's minimal acceptable standards. The FSDWA Act also declares that the State's secondary standards are to be developed in a manner similar to that of the National Secondary Standards.

Within the state of Florida, the Department of Environmental Protection (DEP) is the agency responsible for the administration and implementation of the FSDWA. Assigned to assist the DEP is the Department of Health (DH) which establishes testing laboratories and monitors public water systems. General information on DH responsibility is addressed in the following section on local regulatory actions.

Local Level

The monitoring and evaluation of local public water systems are the responsibilities of the ***Local County Health Department,*** which is a part of Florida's Department of Health. Some of the responsibilities that the Florida Safe Drinking Water Act assigned to the health departments are:

Establish and maintain laboratories for conducting analysis of public water systems;

Collect, analyze, and report all findings on water from community and non-community water systems;

Review and evaluate applications for construction, modification or expansion of a public water system to determine compliance with federal, state and local requirements;

Maintain inventory, operational, bacteriological records, and carry out monitoring and surveying of public water systems;

Participate in educational and training programs;

General supervision of water systems not covered by Florida's SDWA;

Advise and consult with any municipality, county or water authority as to water supply quality. This is only upon request from the local unit of government.

Pinellas County Utilities, and other water supply systems within the County, furnish samples to the Pinellas County Health Department, which then tests the samples for compliance with SDWA standards. After the water is analyzed at the County Health Department, the test results are sent to the DEP. In addition to the Health Department test, local water systems conduct their own water analyses.

County ordinances have been designed to conserve Pinellas County's potable water supply by protecting wellfields, recharge areas and surface water features through such methods as land acquisition, land use controls and management policies.

The Site Development Regulations and Floodplain Management Regulations, Sections 154-64, 166-1, 170-158 of the Pinellas County Code, require on-site retention of storm water in ponds and basins. This reduces runoff rates and recharges the groundwater table, thereby making water available for shallow well withdrawal.

Groundwater Wellhead Protection Program, and the Wellhead Protection Ordinance, Section 166-198 of the Pinellas County Code, creates a zone of protection around the Eldridge-Wilde wellfield. Land use intensity and density in this zone has been reduced, and development is restricted. Existing commercial users in the zone must obtain permits with annual renewal and inspection requirements. Additionally, the County has purchased undeveloped land in the protection area for preservation. This ordinance also provides for interlocal agreements regarding the protection of the potable water supply wells and wellfield.

WATER SUPPLY

State Level

The Water Resource Act, F.S. 373, is legislation that Florida has adopted to address the consumptive use of the State's waters. Florida's water supply had not been conserved or managed prior to the Act's adoption in 1972, consequently the water supply had not been used to its optimum. The declared policy of the Act includes management of water and related land uses, conservation and proper utilization of both surface and groundwater, and prevention of damage from flooding. Because the Act recognized the regional nature of water regulation, the DEP delegated management powers to various water management districts.

As the lead agency, the DEP has the primary responsibilities of administration and implementation of the Water Resource Act. The general duties of the DEP include topographic surveys, research, water use investigations, water quality investigations, water information dissemination, and supervision of the water management districts. The DEP is also mandated to store, compile, and administer survey data from the United States Geological Survey (USGS). In addition, the DEP is charged with drafting a comprehensive state water use plan that pertains to the use and development of the State's surface and ground waters. The Water Plan is to be developed in coordination with the State's water quality classification and standards system.

Florida Statutes Chapter 373 was amended during the 1996 and 1997 Regular Sessions of the Legislature. Changes to the legislation included the direction to water management districts to initiate water supply planning, water supply resource development, and the establishment of minimum flows and levels.

Regional Level

The ***Water Resource Act*** designated a management system of five water management districts. This system is designed to overcome Florida's widely different water problems by

allowing a district authority to oversee flood control and water resource management. Each management district is responsible for issuing well construction permits, consumptive use permits, surface water permits, and stormwater permits. Management districts also have the duties of water shortage regulation, water conservation planning, and resource management. The Water Resource Act added these responsibilities to the management districts which were originally given the obligation of structural and nonstructural flood control.

Pinellas County is part of the Southwest Florida Water Management District (SWFWMD), which is headquartered in Brooksville. The Southwest Florida Water Management District contains all or part of sixteen counties and is partitioned into nine watershed basins. The Pinellas-Anclote River Basin encompasses all of Pinellas County and a portion of Pasco County, and has a Basin Board that carries out the duties assigned in the Water Resource Act. Basin Board duties include planning for resource development and secondary water control facilities, preparing an annual budget, and performing general administrative actions. The Basin Board is also required to assist all counties, municipalities and water supply authorities within the basin in planning and providing water supply and transmission systems. There are eight basin boards, with the Governing Board of SWFWMD responsible for the activities of the ninth basin, Green Swamp.

Chapter 74-114, Laws of Florida, authorizes and encourages municipalities and counties to create regional water supply authorities in order to assist local governments in meeting the water supply needs of rapidly urbanizing areas. Such entities are authorized to develop regional water supplies and to supply water at wholesale prices to counties and municipalities. A regional water supply authority shall constitute a special district under the laws of the State of Florida, and as such, is considered a separate and independent government entity. Utilizing the opportunity presented by Chapter 74-114, the counties of Pinellas, Pasco and Hillsborough together with the municipalities of St. Petersburg and Tampa entered into a Five-Party Agreement creating a regional water supply authority known as the West Coast Regional Water Supply Authority (WCRWSA), which was reorganized as Tampa Bay Water in 1998.

In addition, in Chapter 373.1962, F.S., which specifically deals with regional water supply authorities, the legislature states that authorities are created for the purpose of developing, storing and supplying water for county or municipal purposes in such a manner that will give priority to reducing the adverse environmental effects of excessive or improper withdrawals of water from a limited area. Chapter 373 was amended in 1997 with further directives to the water management districts to develop water supply plans, and to plan for water resource development and water supply development.

The statute specifically forbids an authority to engage in local distribution, and requires an authority to design, construct, operate and maintain facilities necessary to improve an adequate water supply for all citizens within the authority.

The parties to the West Coast Regional Water Supply Authority Agreement were Hillsborough, Pasco, and Pinellas counties, and the cities of St. Petersburg, Tampa and New Port Richey. (The last was a non-voting member.) Each named one representative to the board of directors. All powers, privileges and duties imposed or vested upon the Authority is exercised and performed by and through the board of directors. As a member of the Board, each representative was entitled to one vote on all questions, order and resolutions coming before the Board.

Executive and administrative powers may be delegated by the Board to any of the offices created by the Board. The offices of comptroller, secretary and treasurer have been established by resolution. These offices may be filled by members of the Board. In addition, the Board employs a general manager to administer the Authority, organize staff efforts and employ necessary staff with Board approval.

The WCRWSA was given the duties of developing wellfields, and storing and supplying potable water for local governments. When performing these tasks, the WCRWSA is required to give top priority to alleviating negative environmental effects.

The State delegated to water supply authorities the following powers so it could efficiently develop, store and distribute water:

Acquire water and water rights
Exercise eminent domain
Issue revenue bonds
Design, construct, own, operate, and maintain facilities

In 1998, WCRWSA reorganized as a regional utility and changed its name to Tampa Bay Water. An interlocal agreement signed by the six member governments vested ownership of wells and permits previously held by the member governments with Tampa Bay Water. Tampa Bay Water is now responsible for meeting the potable water supply needs of the member governments (with the exception of the City of Tampa) based on annual estimates prepared by the members.

The Board of Directors is now made up of two representatives from Hillsborough, Pasco and Pinellas Counties, and one director each from the Cities of New Port Richey, St. Petersburg and Tampa. All directors are entitled to one vote each, and no proxy votes are permitted. Offices of Chairman and Vice-Chairman are elected from the directors. The duties of Tampa Bay Water remain essentially the same as those of WCRWSA.

Local Level

Pinellas County regulations address a diverse range of conservation issues such as irrigation and landscaping practices, use of shallow wells, reclaimed water and retention ponds, and use of high efficiency plumbing fixtures.

Shallow Well Requirements Ordinance, Section 166-1 of the Pinellas County Code, requires that all commercial and multifamily units must use shallow wells for landscape irrigation where possible. Shallow well water quality is lower than that of the Floridan Aquifer.
Mandatory Sprinkling Ban Ordinance, Section 82-2 of the Pinellas County Code, provides for the reinstatement of restrictions on nonessential water uses upon passage of a resolution by the Board of County Commissioners. In addition to saving water during drought periods, in many cases, customers are compelled through ordinance enforcement to install equipment and landscaping which is less dependent upon potable water.

Water Shortage Emergency Ordinance, Section 82-1 of the Pinellas County Code, automatically provides for a water shortage emergency to be effective when declared by the

Southwest Florida Water Management District (SWFWMD). This provides for the outdoor water use restrictions to go into effect.

Year-Round Water Conservation Measures, Section 82-2 of the Pinellas County Code, declare year-round water conservation measures through the elimination of irrigation of all established lawns, landscapes, crops and vegetation between the hours of 10:00 a.m. and 4:00 p.m. This prevents excessive water loss to evaporation during the hottest hours of the day.

The Habitat Management and Landscaping Ordinance, Sections 166-37, 166-57 of the Pinellas County Code, promote the use of drought tolerant plants, the retention of existing natural vegetation, maximizing the retention of trees, and promotion of advanced irrigation technologies. This Ordinance also creates a tree bank fund to acquire, protect, and maintain native vegetative communities in the County.

Water Saving Plumbing Facilities and Water Conservation, through the Pinellas County Plumbing Code, incorporates the requirements of the Standard Building Code and the Southern Plumbing Code for the installation of high efficiency water use fixtures. Table 3 has information on the governmental organizations or agencies involved with the regulation of water quality, specifically the name, level of government, and the role of the organization.

WASTEWATER TREATMENT FACILITIES MANAGEMENT

Federal Water Pollution Control Act of 1972 (PL92-500), Amended by PL92-217 (or the Clean Water Act of 1977) and the Water Quality Act of 1987. This Acts are the most comprehensive legislation covering water quality improvement. Generally, this law is intended to return water in the public domain to a quality adequate for the propagation of fish, shellfish and wildlife and which allows for total body contact recreation. The Water Quality Act of 1987 shifts the responsibility for financing the construction of sewage treatment systems to state and local governments.

Florida Department of Environmental Regulation
Chapter 62-600, F.A.C. Wastewater Facilities

Chapter 62-600 implements the provisions and requirements of Sections 403.051, 403.085, 403.086, 403.087 and 403.088 F.S. concerning wastewater facilities. It encourages the study and evaluation of treatment technologies and alternatives including the reuse of treated effluents and residuals. The intent is to assure that state waters are free from hazardous wastewater discharges. Criteria are established for the design of collection and treatment systems. Criteria are also established for the discharge of wastewater to certain wetlands. Wastewater treatment standards are established including disinfection requirements and resultant water quality based effluent limitations (WQBELs). WQBELs are determined based on the characteristics of the discharge, the receiving water characteristics, and the criteria and standards of Chapters 62-3, 62-4 F.A.C (and 62-600) for water quality.

Grizzle-Figg Advanced Waste Treatment Act

The Grizzle - Figg Act addresses effluent disposal and requires advanced wastewater treatment (AWT) for discharge into certain Florida waters. Additionally, after June 14, 1978, no wastewater facility will be built for deep well injection without secondary treatment of all

effluent. Wastewater treatment facilities cannot dispose of effluent into Old Tampa Bay, Tampa Bay, Boca Ciega Bay, St. Joseph's Sound, Clearwater Bay (Pinellas County), or any tributary thereof, without achieving advanced wastewater treatment. Maximum levels of certain pollutants that may remain after treatment are specified along with the level of disinfection required. The law is designed to protect Florida's coastal waters and estuaries from the continued degradation by wastewater pollutants and nutrients.

Florida Department of Environmental Protection, Chapters 17-602 (Operator Certification) and 62-601 (Domestic Wastewater Treatment Plant Monitoring), F.A.C.
Chapter 17-602, F.A.C. requires qualified and certified personnel for the safe operation of wastewater treatment plants. Chapter 62-601 specifies that timely, accurate and cost effective reporting will be required in the operation of the treatment plant.

Florida Department of Environmental Protection. Chapter 62-528, F.A.C.
Underground Injection Control
This rule is designed to ensure that the underground injection of wastewater does not violate the state water quality standards for drinking water. Nor should it negatively impact any other prescribed uses for the groundwater. The rule classifies well types, and associated design criteria and requirements for permits. The rule establishes a state Underground Injection Control Program consistent with the federal program, but specific to the hydrogeology of Florida.

Department of Health and Rehabilitative Services.
Chapter 10D-6, F.A.C. Standards for On-Site Sewage Disposal Systems
Chapter 10D-6 regulates and sets standards for septic tanks in Florida. This rule also requires that residences on septic tanks hook up to sanitary sewer service within 180 days of its becoming available, provided it is within the best interests of public health and economics. Permits are only issued if hook-up is not available to the public or investor owned utility. Standards are set for permitting, design, and construction of on-site disposal systems.

The Pinellas County Sewer Ordinance 91-26
This ordinance was developed by the county primarily in order to prevent pollution of surrounding waters and to protect the population by regulating connections to the Pinellas County Utilities (PCU), and limiting the use of the PCU to the collection, conveyance, treatment, and disposal of wastewater through appropriate regulations and enforcement. The ordinance is included as Appendix B.

Florida Department of Environmental Protection
Chapter 62-7, F.A.C. Resource Recovery and Management
Section IV of Chapter 62-7 addresses domestic sludge classification, utilization, and disposal criteria. Sludge grades are classified according to the level of treatment, and land application/disposal regulations are delineated.

Florida Department of Environmental Protection
Chapter 62-3, F.A.C. Water Quality
Chapter 62-3, F.A.C. sets standards for water quality and discharges to surface and ground water bodies.

Florida Department of Environmental Protection
Chapter 62-4, F.A.C. Permits
Chapter 62-4, F.A.C. addresses permitting requirements for sewage facilities and requires adequate and effective sewage treatment in accordance with DER rules, most notably Chapter 62-600, F.A.C.

Federal Clean Water Act, 1972
The Clean Water Act is the major body of legislation governing water pollution. The primary provisions are designed to restore the chemical, physical and biological integrity of the nation's waters and to make the waters both "fishable and swimmable" by eliminating pollutant discharges.