



SOUTH FLORIDA WATER MANAGEMENT DISTRICT

October 13, 2008

Dear Permittee/Interested Party:

On October 9, 2008, in response to changed resource conditions, the Governing Board of the South Florida Water Management District ("District") issued Order No. 2008-439-DAO-WS. Order No. 2008-439-DAO-WS partially rescinds Water Shortage Order No. 2008-870-DAO-WS which imposed Modified Phase III Extreme Water Shortage Restrictions as to specified areas and now imposes Modified Phase II Severe Landscape Irrigation Restrictions for specified users withdrawing surface water and groundwater within the Lake Okeechobee Service Area.

Since the effective date of Order No. 2007-870-DAO-WS, the water resource concerns have significantly improved over the District, due to favorable rains in the first half of the wet season, Tropical Storm Fay, which produced a six-day average of 7.63 inches District-wide during the second half of August, and a reduction in overall demand through the imposition of water shortage restrictions.

A copy of Order No. 2008-439-DAO-WS, which becomes effective on October 17, 2008, is available on the District's website at www.sfwmd.gov, in municipal and county offices, at District Headquarters, and at District Service Center offices in the affected areas. A list of District offices and their phone numbers is enclosed (Attachment "A").

Effective October 17, 2008, the Modified Phase III Extreme Water Shortage Restrictions imposed by Water Shortage Order No. 2008-870-DAO-WS are hereby rescinded as to the golf course, athletic/recreational, and landscape irrigation use classes within the Lake Okeechobee Service Area. A map of the affected areas is attached (Attachment "B").

All permitted and exempt Landscape Irrigation Use occurring within the Lake Okeechobee Service Area shall be subject to the Modified Phase II landscape irrigation restrictions set forth within Order No. 2008-439-DAO-WS which is enclosed (Attachment "C")

Permitted users are required to continue submitting water usage monitoring data in accordance with permit conditions. The Director of the Water Use Regulation Division is authorized to request, in writing, those permitted water users whose permit conditions require submittal of water usage monitoring data to provide additional data or data submittals at increased frequencies, as determined appropriate. A Notice of Rights is attached (Attachment "D").

The District is making every effort to provide information to the public and its officials regarding water use restrictions. Legal Notices of the water shortage restrictions are to appear in the following Newspapers: "Fort Myers News Press", "Stuart News", "St. Lucie News Tribune", "Lake Placid Journal", and the "Palm Beach Post".

For additional information on the water shortage restrictions or water conservation, call the District's toll-free Water Conservation Hotline at 1-800-662-8876. Helpful water conservation tips are also available at www.savewaterfl.com. You will receive notice of any future changes in restrictions applicable to your area. If you need assistance, please contact your area's District Service Center office.

Sincerely,

A handwritten signature in black ink, appearing to read "Marjorie Craig".

Marjorie Craig, P.E.
Department Director, Water Supply

MC/kar
Enclosures

LEE COUNTY DIV. OF
NATURAL RESOURCES

OCT 22 2008

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**South Florida Water Management District
and Institute of Food and Agricultural Sciences Offices
with Copies of Order No. 2008-439-DAO-WS**

SFWMD Headquarters
3301 Gun Club Road
West Palm Beach, FL 33406
Phone: 561-682-6785

SFWMD Palm Beach County Service Center
3301 Gun Club Road, Building B-2
West Palm Beach, FL 33406
Phone: 561-682-2283

SFWMD Okeechobee Service Center
205 N. Parrott Avenue, Suite 201
Okeechobee, FL 34972
Phone: 863-462-5260

SFWMD Martin/St. Lucie Service Center
780 SE Indian Street
Stuart, FL 34997
Phone: 772-223-2600

SFWMD Lower West Coast Office
2301 McGregor Boulevard
Fort Myers, FL 33901
Phone: 239-338-2929

Institute of Food and Agricultural Sciences (IFAS)
Okeechobee Office
458 Hwy. 98N
Okeechobee, FL 34972
Phone: 863-763-6469

MODIFIED PHASE II LANDSCAPE IRRIGATION RESTRICTIONS

1. Landscape irrigation shall be permitted during the hours of 12:00 a.m. to 10:00 a.m. and/or 4:00 p.m. to 11:59 p.m. on the days specified in Paragraphs 4 and 5 below.
2. Those entities utilizing 100% reclaimed water shall not be restricted except as to the time restriction provided by Paragraph 1, and no landscape irrigation shall occur on Fridays.
3. Low volume irrigation, i.e., drip irrigation and microjet irrigation, shall be voluntarily reduced. Hand-watering utilizing a self-canceling nozzle of existing landscaping is allowed anytime for no more than 10 minutes per area for stress relief or to prevent plant die-off.
4. Existing Installations
 - A. Existing installations means any landscaping which has been planted and established for more than sixty (60) days.
 - B. Landscape irrigation for existing installations shall be permitted no more than two days per week.
 1. Even addresses, installations with irrigation systems that irrigate both even and odd addresses within the same zones, including multi-family units and homeowners' associations, and rights-of-way or other locations with no address may accomplish necessary landscape irrigation only on Thursday and/or Sunday.
 2. Odd addresses may accomplish necessary landscape irrigation only on Wednesday and/or Saturday.
 - C. Landscape irrigation using supplemented reclaimed water shall be subject to the restrictions set forth in Paragraph 4(B), unless:

1. The other supply is incidental stormwater runoff that enters a reclaimed water storage pond;

2. The other supply consists of withdrawals from an un-augmented stormwater system or water recovered from a permitted aquifer storage and recovery (ASR) well that stores seasonal diversions from a surface water body;

3. The other supply is recovered from a reclaimed water ASR well permitted by the Florida Department of Environmental Protection, including reclaimed ASR well testing authorized in preparation for permit issuance; or,

4. The reclaimed water provider and/or supplier has demonstrated to the District that the other water supply is necessary to achieve full disposal of the reclaimed water.

5. New Installations

A. On the day the new landscaping is installed, the new landscaping may be irrigated once without regard to the normally allowable watering days and times. Irrigation of the soil immediately prior to the installation of the new landscaping is also allowable without regard to the normal allowable watering days and times.

B. The sixty day period begins the day the new landscaping is installed. The new landscaping shall be installed within a reasonable time from the date of purchase, which may be demonstrated with a dated receipt or invoice.

C. Irrigation of new landscaping which has been in place for thirty (30) days or less may be accomplished on Monday, Tuesday, Wednesday, Thursday, Saturday, and/or Sunday.

D. Irrigation of new landscaping which has been in place for thirty-one (31) to sixty (60) days may be accomplished on Monday, Wednesday, Thursday, and/or Saturday.

E. Irrigation of the new landscaping is limited to areas containing the new landscaping only. An entire zone of an irrigation system may only be utilized for landscape irrigation under this paragraph if the zone in question is for an area that contains at least 50% new landscaping. If a zone contains less than 50% new landscaping, or if the new landscaping is in an area that will not typically be irrigated by an irrigation system, only the individual new plantings are eligible for additional irrigation under this paragraph. Targeted watering may be accomplished by hand watering or any appropriate method which isolates and waters only the new landscaping.

6. Landscape irrigation systems may be operated during restricted days and times for cleaning, maintenance, and repair purposes with an attendant on site in the area being tested and/or repaired. Landscape irrigation systems may be operated for such purposes no more than once per week, and the run time should not exceed 10 minutes per zone.

7. Landscape irrigation for the purpose of watering-in fertilizers, insecticides, fungicides and herbicides, where such watering-in is required by the manufacturer, or by federal, state or local law, or best management practices, shall be allowed under the following conditions:

A. Such watering-in shall be limited to one application in the absence of specific alternative instructions from the manufacturer; and,

B. Such watering-in shall be accomplished during normally allowable watering days and times unless a professional licensed applicator has posted a

temporary sign containing the date of application and the date(s) of needed watering-in activity.

NOTICE OF RIGHTS

As required by Sections 120.569(1), and 120.60(3), Fla. Stat., following is notice of the opportunities which may be available for administrative hearing or judicial review when the substantial interests of a party are determined by an agency. Please note that this Notice of Rights is not intended to provide legal advice. Not all the legal proceedings detailed below may be an applicable or appropriate remedy. You may wish to consult an attorney regarding your legal rights.

RIGHT TO REQUEST ADMINISTRATIVE HEARING

A person whose substantial interests are or may be affected by the South Florida Water Management District's (SFWMD or District) action has the right to request an administrative hearing on that action pursuant to Sections 120.569 and 120.57, Fla. Stat. Persons seeking a hearing on a District decision which does or may determine their substantial interests shall file a petition for hearing with the District Clerk within 21 days of receipt of written notice of the decision, unless one of the following shorter time periods apply: 1) within 14 days of the notice of consolidated intent to grant or deny concurrently reviewed applications for environmental resource permits and use of sovereign submerged lands pursuant to Section 373.427, Fla. Stat.; or 2) within 14 days of service of an Administrative Order pursuant to Subsection 373.119(1), Fla. Stat. "Receipt of written notice of agency decision" means receipt of either written notice through mail, or electronic mail, or posting that the District has or intends to take final agency action, or publication of notice that the District has or intends to take final agency action. Any person who receives written notice of a SFWMD decision and fails to file a written request for hearing within the timeframe described above waives the right to request a hearing on that decision.

Filing Instructions

The Petition must be filed with the Office of the District Clerk of the SFWMD. Filings with the District Clerk may be made by mail, hand-delivery or facsimile. **Filings by e-mail will not be accepted.** Any person wishing to receive a clerked copy with the date and time stamped must provide an additional copy. A petition for administrative hearing is deemed filed upon receipt during normal business hours by the District Clerk at SFWMD headquarters in West Palm Beach, Florida. Any document received by the office of the SFWMD Clerk after 5:00 p.m. shall be filed as of 8:00 a.m. on the next regular business day. Additional filing instructions are as follows:

- Filings by mail must be addressed to the Office of the SFWMD Clerk, P.O. Box 24680, West Palm Beach, Florida 33416.
- Filings by hand-delivery must be delivered to the Office of the SFWMD Clerk. **Delivery of a petition to the SFWMD's security desk does not constitute filing. To ensure proper filing, it will be necessary to request the SFWMD's security officer to contact the Clerk's office.** An employee of the SFWMD's Clerk's office will receive and file the petition.
- Filings by facsimile must be transmitted to the SFWMD Clerk's Office at (561) 682-6010. Pursuant to Subsections 28-106.104(7), (8) and (9), Fla. Admin. Code, a party who files a document by facsimile represents that the original physically signed document will be retained by that party for the duration of that proceeding and of any subsequent appeal or subsequent proceeding in that cause. Any party who elects to file any document by facsimile shall be responsible for any delay, disruption, or interruption of the electronic signals and accepts the full risk that the document may not be properly filed with the clerk as a result. The filing date for a document filed by facsimile shall be the date the SFWMD Clerk receives the complete document.

Initiation of an Administrative Hearing

Pursuant to Rules 28-106.201 and 28-106.301, Fla. Admin. Code, initiation of an administrative hearing shall be made by written petition to the SFWMD in legible form and on 8 and 1/2 by 11 inch white paper. All petitions shall contain:

1. Identification of the action being contested, including the permit number, application number, District file number or any other SFWMD identification number, if known.
2. The name, address and telephone number of the petitioner and petitioner's representative, if any.
3. An explanation of how the petitioner's substantial interests will be affected by the agency determination.
4. A statement of when and how the petitioner received notice of the SFWMD's decision.
5. A statement of all disputed issues of material fact. If there are none, the petition must so indicate.
6. A concise statement of the ultimate facts alleged, including the specific facts the petitioner contends warrant reversal or modification of the SFWMD's proposed action.
7. A statement of the specific rules or statutes the petitioner contends require reversal or modification of the SFWMD's proposed action.
8. If disputed issues of material fact exist, the statement must also include an explanation of how the alleged facts relate to the specific rules or statutes.
9. A statement of the relief sought by the petitioner, stating precisely the action the petitioner wishes the SFWMD to take with respect to the SFWMD's proposed action.

A person may file a request for an extension of time for filing a petition. The SFWMD may, for good cause, grant the request. Requests for extension of time must be filed with the SFWMD prior to the deadline for filing a petition for hearing. Such requests for extension shall contain a certificate that the moving party has consulted with all other parties concerning the extension and that the SFWMD and any other parties agree to or oppose the extension. A timely request for extension of time shall toll the running of the time period for filing a petition until the request is acted upon.

If the District's Governing Board takes action with substantially different impacts on water resources from the notice of intended agency decision, the persons who may be substantially affected shall have an additional point of entry pursuant to Rule 28-106.111, Fla. Admin. Code, unless otherwise provided by law.

Mediation

The procedures for pursuing mediation are set forth in Section 120.573, Fla. Stat., and Rules 28-106.111 and 28-106.401-.405, Fla. Admin. Code. The SFWMD is not proposing mediation for this agency action under Section 120.573, Fla. Stat., at this time.

RIGHT TO SEEK JUDICIAL REVIEW

Pursuant to Sections 120.60(3) and 120.68, Fla. Stat., a party who is adversely affected by final SFWMD action may seek judicial review of the SFWMD's final decision by filing a notice of appeal pursuant to Florida Rule of Appellate Procedure 9.110 in the Fourth District Court of Appeal or in the appellate district where a party resides and filing a second copy of the notice with the SFWMD Clerk within 30 days of rendering of the final SFWMD action.