

**BEFORE THE GOVERNING BOARD OF THE  
SOUTH FLORIDA WATER MANAGEMENT DISTRICT**

Order No.: 2023-063-DAO WS

IN RE:

Emergency Declaration of Modified  
Phase III Water Shortage Restrictions  
for the Recreation Area, Golf Course,  
Landscape Irrigation, Nursery, and  
Agriculture Use Classes Withdrawing  
Groundwater From the Mid-Hawthorn  
Aquifer within northeastern Cape Coral  
and a portion of unincorporated Lee County.

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**RECEIVED  
DISTRICT CLERK'S OFFICE**

3:46 pm Nov 28, 2023

**SOUTH FLORIDA  
WATER MANAGEMENT DISTRICT**

CMB

**EMERGENCY ORDER DECLARING WATER SHORTAGE AND  
IMPOSING MODIFIED PHASE III RESTRICTIONS**

The Executive Director of the South Florida Water Management District ("District"), after considering the recommendations of District Staff and being otherwise fully apprised, issues this Emergency Order pursuant to Sections 373.083, 373.119(2), 373.175, and 373.246(7), Florida Statutes ("Fla. Stat."), and Chapter 40E-21, Florida Administrative Code ("Fla. Admin. Code"), based upon the following Findings of Fact and Conclusions of Law:

**AREA OF APPLICATION**

1. The area subject to this Emergency Order is the northeastern portion of the City of Cape Coral and a portion of unincorporated Lee County, Florida ("northeastern Cape Coral") located in the District's Lower West Coast ("LWC") Planning Region, generally bounded by Gator Slough Canal to the north, NE 24th Ave and Garden Blvd to the east, Pine Island Road to the South, and Nelson Rd N to the west. A map depicting the area governed by this Order is attached hereto as **Exhibit A**.

2. The source(s) of water affected by this Emergency Order is groundwater in the Mid-Hawthorn aquifer (“MHA”), as defined in subsection 40E-8.021(14), Fla. Admin. Code, in northeastern Cape Coral.

3. As identified in Chapter 40E-21, Fla. Admin. Code, the recreation<sup>1</sup>, golf course<sup>2</sup>, landscape irrigation<sup>3</sup>, nursery<sup>4</sup>, and agricultural<sup>5</sup> use classes, utilizing the MHA as a water source in northeastern Cape Coral are subject to this Emergency Order.

### **FINDINGS OF FACT**

4. The hydrologic dry season runs from November 1st through May 31st. During these dry times, water demands from users typically increase to meet the supplemental irrigation needs of crops, nurseries, landscaping, golf courses, etc. These additional water demands further reduce available supplies and lower the groundwater levels.

5. The U.S. Drought Monitor publishes a weekly drought conditions report. The November 22, 2023, report indicates that the Cape Coral area is in an “Abnormally Dry” to “Moderate Drought” Condition.

6. As of November 27th, 2023, the current groundwater level at United States Geological Survey (USGS) monitor well L-4820 (“L-4820”), located in northeastern Cape Coral, is at -87.4 feet National Geodetic Vertical Datum (“NGVD”). This is more than a half foot decrease from the level recorded on November 20, 2023. Further declines at this

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<sup>1</sup> Subsection 40E-21.651(3)(d), Fla. Admin. Code.

<sup>2</sup> Subsection 40E-21.651(3)(e), Fla. Admin. Code.

<sup>3</sup> Subsection 40E-21.651(3)(b) and (c), Fla. Admin. Code.

<sup>4</sup> Subsection 40E-21.651(3)(a), Fla. Admin. Code.

<sup>5</sup> Subsection 40E-21.651(2)(a), Fla. Admin. Code.

weekly rate are projected to result in an MFL violation; therefore, immediate action must be taken.

7. The current elevation level at well L-4820 is approximately 15 feet lower than the elevation recorded on November 27th in each of the four preceding years, due in large part to the below-normal wet-season rainfall of 2023 in the area. These conditions are expected to worsen as we enter the dry season, resulting in further anticipated declines in groundwater elevations. The historical hydrograph for well L-4820 is shown in **Exhibit B**.

8. Further, the current groundwater level at L-4820 is below the maximum developable limit (“MDL”) established for this well. The MDL for L-4820 is set at -82 feet<sup>6</sup> NGVD, which is 20 feet above the top of the MHA. The established minimum flow and minimum water level (MFL) for well L-4820 is approximately -102 feet NGVD, which is the elevation of the top of the MHA.<sup>7</sup> The established MDL and MFL are permitting criteria implemented by the District to prevent harm to the MHA.

9. In last year’s dry season, the groundwater level declined approximately 20 feet between November 1, 2022, and May 31, 2023, which is a typical decline associated with the dry season. Should this typical 20-foot decline in groundwater level occur during this dry season, an MFL violation would occur<sup>8</sup> resulting in significant harm to the resource.

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<sup>6</sup> The maximum developable limit, as set forth in Section 3.9.3 of the *Applicant’s Handbook for Water Use Permit Applications within the South Florida Water Management District*, is incorporated by reference in Rule 40E-2.091, Fla. Admin. Code.

<sup>7</sup> The minimum level for the Mid-Hawthorn Aquifer is set forth in Rule 40E-8.331, Fla. Admin. Code, and is implemented as permitting criteria in section 3.9 of the *Applicant’s Handbook for Water Use Permit Applications within the South Florida Water Management District*.

<sup>8</sup> Pursuant to Rule 40E-8.331, Fla. Admin. Code, the minimum level for the Mid-Hawthorn aquifer is set at the structural top of the aquifer, which is located at -102 feet NGVD. Given the current water level at

10. While other wells (e.g., L-2700, L-2646) located in the MHA in northern Cape Coral have experienced groundwater elevation declines associated with the below-normal rainfall of the 2023 wet season, the only well projected to experience an MFL violation is well L-4820 because the top of the aquifer elevation for the MHA becomes deeper in all directions from well L-4820. This means water levels would have to drop deeper in the other wells to experience an MFL violation.

11. In light of the above factors, conservation of groundwater sources in the MHA and mandatory water restrictions must be immediately implemented upon the aforementioned use classes. There is great potential for water supplies over the remainder of the dry season to decline resulting in insufficient water to meet the present and anticipated requirements of water users and protect the water resources from serious harm.

12. District staff will continue to monitor water usage and groundwater levels to assess the effectiveness of this water shortage emergency order. Invoking mandatory water use restrictions is intended to equitably distribute the remaining water supplies and prevent serious harm to the groundwater resources. District staff recognize that if water conditions improve, water shortage restrictions can be relaxed; however, if water conditions worsen, the potential for increased or additional water shortage restrictions may be necessary.

### **CONCLUSIONS OF LAW**

13. The Executive Director of the District is authorized to issue emergency orders without prior notice, in the event of an emergency requiring the immediate action

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USGS monitoring well L-4820 is -86 feet NGVD, an MFL violation for the Mid-Hawthorn Aquifer will occur (-86 feet NGVD – 20 feet = -106 feet NGVD, which is 4 feet below the structural top of the aquifer).

to protect the public health, safety, or welfare, with the concurrence of the Governing Board.<sup>9</sup>

14. The District's water shortage plan regulating the withdrawal of water and protection of the water resources is set forth in Chapter 40E-21, Fla. Admin. Code.<sup>10</sup>

15. In accordance with the water shortage plan, the District may impose restrictions on one or more water use classes to protect the water resources within an area from serious harm.<sup>11</sup>

16. The District may declare a water shortage emergency to equitably distribute supply through the implementation of the District's Water Shortage Plan in Chapter 40E-21, Fla. Admin. Code<sup>12</sup>.

17. The District may increase water resource and demand monitoring pursuant to Rule 40E-21.401, Fla. Admin. Code.

18. The specific restrictions contained in Part V, Chapter 40E-21, Fla. Admin. Code, are water use restrictions that may be ordered during a declared water shortage emergency.<sup>13</sup> The Executive Director may order any additional combination of restrictions necessary to achieve the percent reduction in user demand.<sup>14</sup>

19. Without the imposition of mandatory water use restrictions, based on the cumulative assessment of rainfall deficit, the groundwater availability, current water demands, and the climate forecast, there is a significant potential that there will be

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<sup>9</sup> See §§ 373.119(2), 373.246(7), Fla. Stat., Rules 40E-0.107 and 40E-21.331(4), Fla. Admin. Code.

<sup>10</sup> See *also* § 373.246, Fla. Stat.

<sup>11</sup> See § 373.246(3), Fla. Stat.

<sup>12</sup> See subsection 40E-21.331, Fla. Admin. Code.

<sup>13</sup> See subsection 40E-21.371(2), Fla. Admin. Code.

<sup>14</sup> See subsection 40E-21.371(2), Fla. Admin. Code.

insufficient water available to meet anticipated future demands and protect the resources from significant harm, which would result in an MFL violation.

20. Considering the findings above and Rules 40E-21.331 and 40E-21.541, Fla. Admin. Code, the Executive Director finds it necessary to impose Modified Phase III Water Shortage Restrictions on recreation area, golf course, landscape, nursery, and agricultural uses that utilize groundwater from the MHA within northeastern Cape Coral.

21. The District requests that the local officials in Cape Coral and Lee County assist the District in the enforcement of this Emergency Order within their respective jurisdictional areas.<sup>15</sup>

## **ORDER**

Pursuant to Section 373.119(2), 373.175, and 373.246(7), Fla. Stat., and Rules 40E-0.107 and 40E-21.331, Fla. Admin Code., and based upon the above Findings of Fact and Conclusions of law, the Executive Director orders that:

22. Modified Phase III Water Shortage Restrictions be implemented for recreation area, golf course, landscape, nursery, and agricultural uses that utilize groundwater from the MHA within northeastern Cape Coral.

23. Permitted and exempt irrigation users within northeastern Cape Coral, shall comply with the landscape irrigation restrictions contained in **Exhibits C and D**, attached hereto and incorporated into this Emergency Order.

24. Golf courses that use the MHA within northeastern Cape Coral shall implement a management plan that reduces the total irrigation by 45% of their monthly allocation, derived from the AFSIRS calculation. Actual pumpage shall be reported on a

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<sup>15</sup> See Rule 40E-21.421(1), Fla. Admin. Code

weekly basis to the District's water shortage website available at <https://www.sfwmd.gov/community-residents/water-shortage>. Reporting for the preceding week is due by noon every Monday.

25. Athletic turf fields shall be irrigated according to best management practices, designed to reduce water use while protecting the health and safety of athletes using the fields, and developed in consultation with District staff.

26. Recreation area users, except for athletic turf fields, within northeastern Cape Coral shall comply with the restrictions contained in **Exhibit E**, attached hereto and incorporated into this Emergency Order.

27. Nursery users within northeastern Cape Coral shall comply with restrictions contained in **Exhibit F**, attached hereto and incorporated into this Emergency Order.

28. Agriculture users within northeastern Cape Coral shall comply with the restrictions contained in **Exhibit G**, attached hereto and incorporated into this Emergency Order.

29. Permitted users shall continue submitting water usage monitoring data in accordance with permit conditions. The Water Use Bureau Chief or the Water Use Bureau Chief's designee is authorized to make written requests to permitted users, whose permit conditions require the submittal of water usage monitoring, to provide additional data or increase the frequency of submittals, as deemed appropriate.

30. A permitted water user may request relief from this Order by filing an application for variance under pursuant to Rule 40E-21.275, Fla. Admin. Code. The user must meet the imposed restrictions until the Governing Board or Executive Director grants the requested variance.

31. Any variance from this Order shall expire upon declaration by the District that the water shortage in the affected area no longer exists, rescinding this Order, or when a more restrictive water use declaration is imposed (unless otherwise provided in the water shortage order).

32. Persons whose substantial interests are affected by this Emergency Order shall have the right, pursuant to Chapter 120 and Section 373.119(3), Fla. Stat., and as stated in the Notice of Rights, to petition for an administrative hearing. A notice of rights is attached hereto as **Exhibit H**.

33. This Order shall become effective on November 28, 2023, and shall remain in effect until modified or rescinded by the Governing Board, Executive Director, or the Executive Director's designee, if the circumstances in subsection 40E-21.291(5), Fla. Admin. Code., are present.

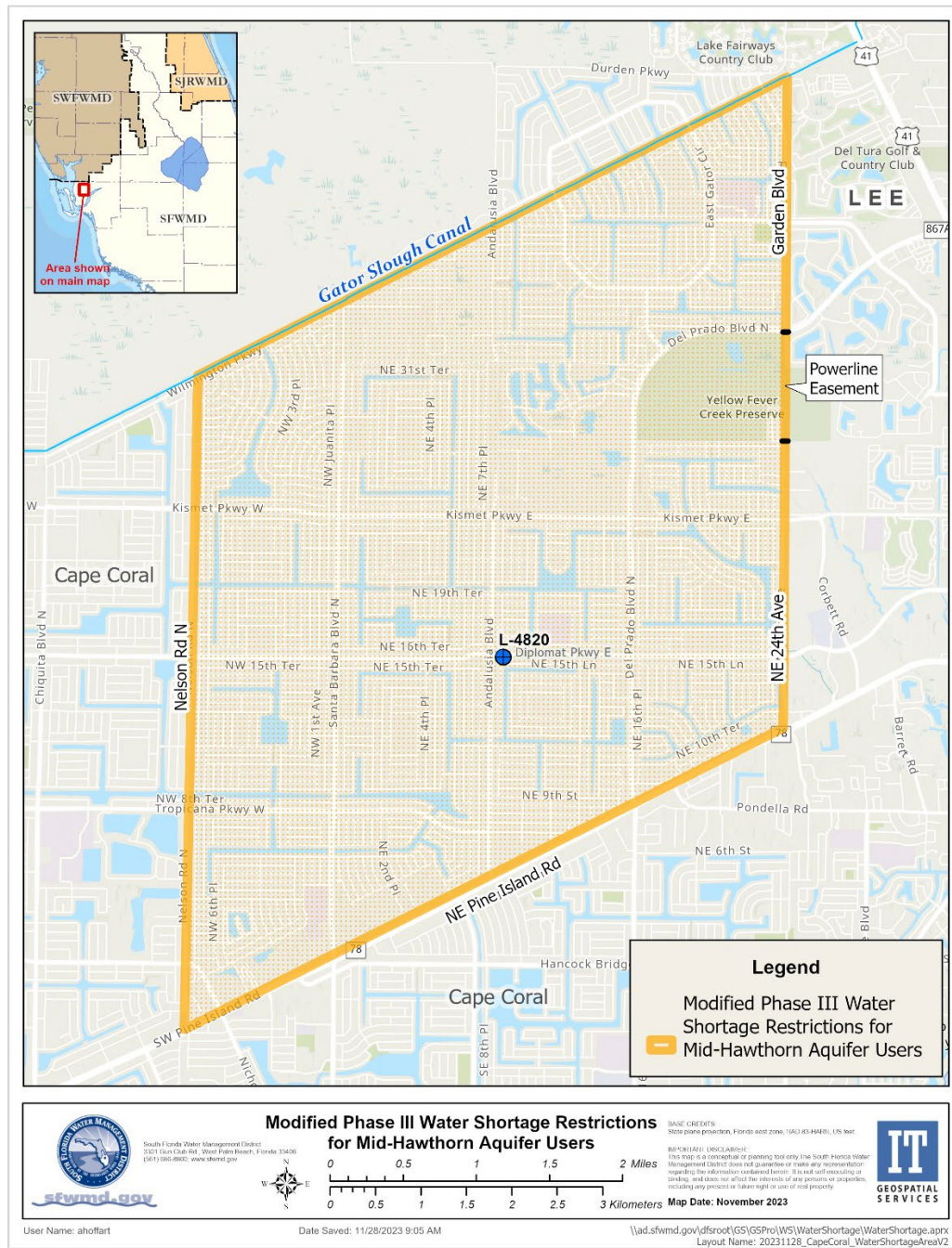
34. This Emergency Order is subject to the Governing Board's concurrence at its next regularly scheduled meeting.

**DONE AND SO ORDERED** in West Palm Beach, Florida on this 28th day of November, 2023.

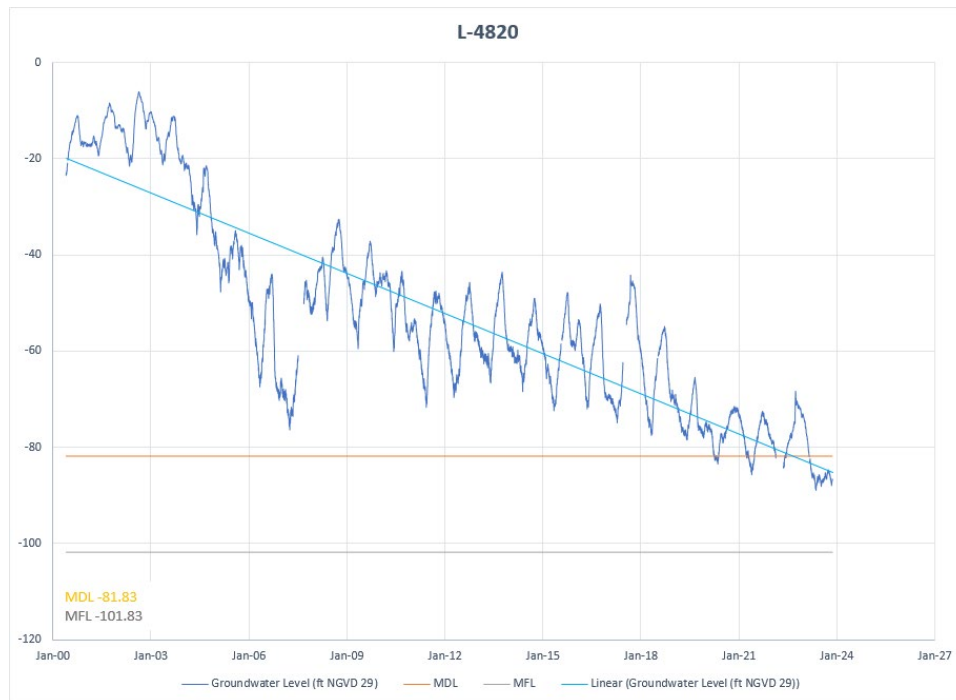
SOUTH FLORIDA WATER  
MANAGEMENT DISTRICT  
By its Executive Director

  
Drew Bartlett

# EXHIBIT A



## **EXHIBIT B**



## **Exhibit C**

### **Modified Phase III Restrictions for Landscape Irrigation Uses Within the City of Cape Coral in Northeastern Cape Coral**

1. Affects users withdrawing groundwater from the Mid-Hawthorn Aquifer
2. All wasteful and unnecessary water use is prohibited.
3. Low volume irrigation, i.e., drip irrigation and microjet irrigation, shall be voluntarily reduced.
4. Hand watering of existing landscape utilizing a self-canceling nozzle is allowed anytime for no more than 10 minutes per area for stress relief or to prevent plant die-off.
5. Landscape irrigation for existing installations is limited to one day per week as set forth in the City of Cape Coral Code of Ordinances Subsection 19-91 Emergency Stage 1 landscape irrigation restrictions as copied below.
  - a. For existing installations less than 5 irrigated acres, landscape irrigation shall be restricted for all types of irrigation, as set forth below:
    - i. Installations with an address that ends in 0 shall be permitted to irrigate on Monday from 12:00 a.m. to 4:00 a.m.
    - ii. Installations with an address that ends in 1 shall be permitted to irrigate on Friday from 4:00 a.m. to 8:00 a.m.
    - iii. Installations with an address that ends in 2 shall be permitted to irrigate on Thursday from 12:00 a.m. to 4:00 a.m.
    - iv. Installations with an address that ends in 3 shall be permitted to irrigate on Wednesday from 12:00 a.m. to 4:00 a.m.

- v. Installations with an address that ends in 4 shall be permitted to irrigate on Sunday from 12:00 a.m. to 4:00 a.m.
  - vi. Installations with an address that ends in 5 shall be permitted to irrigate on Saturday from 12:00 a.m. to 4:00 a.m.
  - vii. Installations with an address that ends in 6 shall be permitted to irrigate on Thursday from 4:00 a.m. to 8:00 a.m.
  - viii. Installations with an address that ends in 7 shall be permitted to irrigate on Wednesday from 4:00 a.m. to 8:00 a.m.
  - ix. Installations with an address that ends in 8 shall be permitted to irrigate on Sunday from 4:00 a.m. to 8:00 a.m.
  - x. Installations with an address that ends in 9 shall be permitted to irrigate on Saturday from 4:00 a.m. to 8:00 a.m.
  - b. Existing installations with no address, or which irrigate both odd and even-numbered addresses, including multi-family units, shall be permitted to irrigate on Monday from 4:00 a.m. to 8:00 a.m.
  - c. Existing installations equal to or more than 5 irrigated acres, including those which irrigate both odd and even-numbered addresses, such as multi-family units, shall be permitted to irrigate on Monday from 12:00 a.m. to 8:00 a.m.
6. Watering of new lawns and landscaping during a 45-day establishment period shall be permitted on any day of the week from 2:00 a.m. to 8:00 a.m.

## **Exhibit D**

### **Modified Phase III Restrictions for Landscape Irrigation Uses In Unincorporated Lee County in Northeastern Cape Coral**

1. Affects users withdrawing groundwater from the Mid-Hawthorn Aquifer
2. All wasteful and unnecessary water use is prohibited.
3. Low volume irrigation, i.e., drip irrigation and microjet irrigation, shall be voluntarily reduced.
4. Hand watering of existing landscape utilizing a self-canceling nozzle is allowed anytime for no more than 10 minutes per area for stress relief or to prevent plant die-off.
5. Landscape irrigation users located in unincorporated portions of northeastern Cape Coral, are prohibited from irrigating between the hours of 9:00 a.m. and 5:00 p.m.
6. Landscape irrigation for existing installations located in unincorporated portions of northeastern Cape Coral is limited to one day per week as set forth below:
  - a. Even-numbered addresses, installations with irrigation systems that irrigate both even and odd-numbered addresses within the same zones, such as multi-family units and homeowners' associations, and rights-of-way or other locations with no address, shall accomplish necessary landscape irrigation only on Sunday.
  - b. Odd-numbered addresses shall accomplish necessary landscape irrigation only on Saturday.
7. Irrigation of new landscaping, installations which have been in place for less than 30 days, is:

- a. Restricted to the hours of 4:00 a.m. to 9:00 a.m., Monday, Wednesday, and Saturday for less than 5 irrigated acres.
  - b. Restricted to the hours of 12:01 a.m. to 9:00 a.m., Monday, Wednesday, and Saturday for equal to or more than 5 irrigated acres.
- 8. Water use for cleaning, adjusting, or repairing irrigation systems is:
  - a. Restricted to 10 minutes per zone, per week, for existing irrigation systems.
  - b. Restricted to 10 minutes per zone on a one-time basis, for new irrigation systems.

## **Exhibit E**

### **Modified Phase III Restrictions for Recreation Area Uses Within Northeastern Cape Coral**

1. Affects users withdrawing groundwater from the Mid-Hawthorn Aquifer
2. All wasteful and unnecessary water use is prohibited.
3. Landscape irrigation for new recreation areas, those that have been in place for less than 30 days, shall be restricted to the following hours:
  - a. For areas that are less than 5 irrigated acres in size, water use for irrigation shall be restricted to the hours of 2:00 a.m. to 7:00 a.m., Monday, Wednesday, and Friday; and,
  - b. For areas that are 5 irrigated acres, or greater, in size, water use for irrigation shall be restricted to the hours of 12:01 a.m. to 7:00 a.m., Monday, Wednesday, and Friday.
4. Landscape irrigation for existing recreation areas shall be restricted to the hours of 4:00 a.m. to 7:00 a.m., for all types of irrigation, except low volume irrigation, and 5:00 p.m. to 7:00 p.m. for low volume hand watering only, one day per week.
5. Watering of pervious non-vegetated recreational/sporting surfaces shall be restricted to ten minutes of application prior to each recreational/sporting event. Low volume watering shall be used.

## **Exhibit F**

### **Modified Phase III Restrictions for Nursery Uses Within Northeastern Cape Coral**

1. Affects users withdrawing groundwater from the Mid-Hawthorn Aquifer
2. All wasteful and unnecessary water use is prohibited.
3. Low volume irrigation uses and low volume hand watering shall be voluntarily reduced.
4. Overhead irrigation uses shall be restricted as follows:
  - a. Inside – 8:00 a.m. to 8:00 p.m., on odd numbered days.
  - b. Outside – 12:01 a.m. to 7:00 a.m., on odd numbered days.
  - c. Outside overhead irrigation for containerized nursery stock moisture stress reduction on stock grown in containers up to and including one gallon in size shall be allowed daily for 10 minutes per irrigation zone from 11:30 a.m. to 12:00 p.m., 1:30 p.m. to 2:00 p.m. and 3:30 p.m. to 4:00 p.m.
5. Flood irrigation systems shall be restricted to 4 days per month.

## **Exhibit G**

### **Modified Phase III Restrictions for Agricultural Uses Within Northeastern Cape Coral**

1. Affects users withdrawing groundwater from the Mid-Hawthorn Aquifer
2. All wasteful and unnecessary water use is prohibited.
3. Overhead irrigation shall be restricted to the hours of 7:00 p.m. to 7:00 a.m.
4. Low volume irrigation hours shall not be restricted.
5. All irrigation systems shall be operated in a manner that will maximize the percentage of water withdrawn and held which is placed in the root zone of the crop and will minimize the amount of water which is withdrawn and released or lost to the user but is not immediately available for other users.
6. Users having access to more than one source class shall maximize the use of the lesser or least restricted source class.
7. Overhead irrigation for field grown citrus nursery stock moisture stress reduction shall be allowed daily for 10 minutes per irrigation zone from 11:30 a.m. to 12:00 p.m., 1:30 p.m. to 2:00 p.m. and 3:30 p.m. to 4:00 p.m.
8. Livestock water use shall be voluntarily reduced.
9. Aquacultural water use shall be voluntarily reduced.
10. Soil Flooding:
  - a. Soil flooding for vegetable seed planting, rice planting, burning of sugarcane prior to harvest and to permit harvesting of sod shall be voluntarily reduced.
  - b. Soil flooding for all other purposes shall be prohibited.

11. Water use for freeze protection shall be restricted to situations in which official weather forecasting services predict temperatures likely to cause permanent damage to crops.

## **Exhibit H**

### **NOTICE OF RIGHTS**

As required by Chapter 120, Florida Statutes, the following provides notice of the opportunities which may be available for administrative hearing pursuant to Sections 120.569 and 120.57, Florida Statutes, or judicial review pursuant to Section 120.68, Florida Statutes, 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. Some of the legal proceedings detailed below may not be applicable or appropriate for your situation. 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 (District) action has the right to request an administrative hearing on that action pursuant to Sections 120.569 and 120.57, Florida Statutes. Persons seeking a hearing on a District decision which affects or may affect their substantial interests shall file a petition for hearing in accordance with the filing instructions set forth herein 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, Florida Statutes; or (2) within 14 days of service of an Administrative Order pursuant to Section 373.119(1), Florida Statutes. "Receipt of written notice of agency decision" means receipt of written notice through mail, electronic mail, posting, or publication that the District has taken or intends to take final agency action. Any person who receives written notice of a District 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.

If the District takes final agency action that materially differs from the noticed intended agency decision, persons who may be substantially affected shall, unless otherwise provided by law, have an additional point of entry pursuant to Rule 28-106.111, Florida Administrative Code.

Any person to whom an emergency order is directed pursuant to Section 373.119(2), Florida Statutes, shall comply therewith immediately, but on petition to the board shall be afforded a hearing as soon as possible.

A person may file a request for an extension of time for filing a petition. The District may grant the request for good cause. Requests for extension of time must be filed with the District 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 whether the District and any other parties agree to or oppose the extension. A timely request for an extension of time shall toll the running of the time period for filing a petition until the request is acted upon.

#### **FILING INSTRUCTIONS**

A petition for administrative hearing must be filed with the Office of the District Clerk. Filings with the Office of the District Clerk may be made by mail, hand-delivery, or e-mail. Filings by facsimile will not be accepted. A petition for administrative hearing or other document is deemed filed upon receipt during normal business hours by the Office of the District Clerk at the District's headquarters in West Palm Beach, Florida. The District's normal business hours are 8:00 a.m. – 5:00 p.m., excluding weekends and District holidays. Any document received by the Office of the District Clerk after 5:00 p.m. shall be deemed 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 District Clerk, 3301 Gun Club Road, West Palm Beach, Florida 33406.
- Filings by hand-delivery must be delivered to the Office of the District Clerk. Delivery of a petition to the District's security desk does not constitute filing. It will be necessary to request that the District's security officer contact the Office of the District Clerk. An employee of the District's Clerk's office will receive and process the petition.
- Filings by e-mail must be transmitted to the Office of the District Clerk at [clerk@sfwmd.gov](mailto:clerk@sfwmd.gov). The filing date for a document transmitted by electronic mail shall be the date the Office of the District Clerk receives the complete document.

### **INITIATION OF AN ADMINISTRATIVE HEARING**

Pursuant to Sections 120.54(5)(b)4. and 120.569(2)(c), Florida Statutes, and Rules 28-106.201 and 28-106.301, Florida Administrative Code, initiation of an administrative hearing shall be made by written petition to the District in legible form and on 8 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 District identification number, if known.
2. The name, address, any email address, any facsimile number, and telephone number of the petitioner, petitioner's attorney or qualified 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 District'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 District's proposed action.
7. A statement of the specific rules or statutes the petitioner contends require reversal or modification of the District'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 District to take with respect to the District's proposed action.

### **MEDIATION**

The procedures for pursuing mediation are set forth in Section 120.573, Florida Statutes, and Rules 28-106.111 and 28-106.401–.405, Florida Administrative Code. The District is not proposing mediation for this agency action under Section 120.573, Florida Statutes, at this time.

### **RIGHT TO SEEK JUDICIAL REVIEW**

Pursuant to Section 120.68, Florida Statutes, and in accordance with Florida Rule of Appellate Procedure 9.110, a party who is adversely affected by final District action may seek judicial review of the District's final decision by filing a notice of appeal with the Office of the District Clerk in accordance with the filing instructions set forth herein within 30 days of rendition of the order to be reviewed, and by filing a copy of the notice with the appropriate district court of appeals via the Florida Courts E-Filing Portal.